

PACIFIC SALMON TREATY ACT OF 1985

HEARING BEFORE THE NATIONAL OCEAN POLICY STUDY OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 516

TO GIVE EFFECT TO THE TREATY BETWEEN THE GOVERNMENT OF
THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF
CANADA CONCERNING PACIFIC SALMON, SIGNED AT OTTAWA, JANU-
ARY 28, 1985

MARCH 1, 1985

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Committee on Commerce, Science, and Transportation



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CONTENTS

Opening statement by Senator Gorton	Page 1
Text of S. 516	2
Opening statement by Senator Packwood	23
Opening statement by Senator Hollings	23
Opening statement by Senator Stevens	24

LIST OF WITNESSES

Derwinski, Edward J., Counselor, Department of State; accompanied by Theodore Kronmiller; and Joy Yanagida; and Mary Walker, Deputy Solicitor, Department of the Interior	25
Prepared statements:	
Mr. Derwinski	26
Mr. Kronmiller	29
Evans, Hon. Daniel J., U.S. Senator from Washington	24
Pinkham, Allen, chairman, Columbia River Inter-Tribal Fish Commission; and S. Timothy Wapato, executive director; Nathan Jim, Warm Springs Fish & Wildlife Committee; Bill Frank, chairman, Northwest Indian Fisheries Commission; and Jim Harp, vice chairman; Levi George, secretary, Fish and Wildlife Committee of Yakima Nation	54
Prepared statements:	
Mr. Bill Frank	57
Mr. Harp	59
Mr. Pinkham	61
Mr. Delbert Frank	63
Wilkerson, William, director, State of Washington Department of Fisheries; and Norm Cohen, representative of the State of Alaska	39
Prepared statements:	
Mr. Wilkerson	43
Governor Sheffield	47

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Atiyeh, Hon. Victor, Governor, State of Oregon, statement	69
Cedergreen, Mark, chairman, U.S./Canada Treaty Coalition, board member, Washington State Charterboat Association, statement	70
Frick, Douglas, president, Washington Trollers Association, letter	71
Hatfield, Hon. Mark O., U. S. Senator from Oregon, statement	69
Snowden, Diana E., executive director, Pacific Northwest Utilities Conference Committee, letter	72

UNITED STATES-CANADA PACIFIC SALMON TREATY

FRIDAY, MARCH 1, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
NATIONAL OCEAN POLICY STUDY,
Washington, DC.

The committee met, pursuant to notice at 9 a.m., in room SD-562, Dirksen Senate Office Building, Hon. Slade Gorton presiding.

Staff members assigned to this hearing: James Gilmore, professional staff member, and James Drewry, minority staff counsel.

OPENING STATEMENT BY SENATOR GORTON

Senator GORTON. Good morning. We are going to begin the hearing now. The first witnesses will appear. Welcome to this hearing of the Senate Commerce Committee and the National Ocean Policy Study on S. 516, a bill to implement the United States-Canada Pacific Salmon Treaty. The United States-Canada Salmon Interception Treaty is critical to the Pacific Northwest. The future of our salmon resource and the people who depend upon it are in jeopardy. We need this treaty to address the issue of scarcity of salmon stocks coastwide.

Over the years, uncontrolled interceptions by Canadians and U.S. citizens have been a major problem, resulting in overfishing of the resource. This treaty provides a structure that will prevent overfishing and will ensure that each country receives benefits equivalent to the production of salmon originating in its waters.

The purpose of the implementing legislation before the committee today is to authorize U.S. participation in the treaty. Like the treaty, the implementing language represents the hard work, delicate negotiation, and willingness to compromise which characterize the U.S. delegation's actions over the past several months.

Both the treaty and S. 516 are endorsed by most of the Northwest commercial and sport fishermen, State and tribal fishery managers, fishery-dependent businesses, and State and local governments.

I am, of course, pleased to support the treaty and to cosponsor S. 516. And that treaty is supported as well by all of the Members of the U.S. Senate from the Pacific Northwest.

[The bill follows:]

99TH CONGRESS
1ST SESSION

S. 516

To give effect to the Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, FEBRUARY 18), 1985

Mr. DANFORTH (for himself, Mr. EVANS, Mr. GORTON, Mr. HATFIELD, Mr. MURKOWSKI, and Mr. PACKWOOD) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To give effect to the Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Pacific Salmon Treaty
4 Act of 1985".

5 SEC. 2. DEFINITIONS.

6 As used in this title, unless the context otherwise re-
7 quires, the term—

1 (a) "Commission" means the Pacific Salmon
2 Commission established by the Treaty;

3 (b) "Magnuson Act" means the Act entitled "the
4 Magnuson Fishery Conservation and Management
5 Act," as approved April 13, 1976, and as later amend-
6 ed (16 U.S.C. Section 1801 et seq.);

7 (c) "Panel" means any of the Panels established
8 by the Treaty;

9 (d) "person" means any individual (whether or not
10 a citizen or national of the United States), any corpo-
11 ration, partnership, association, or other entity (wheth-
12 er or not organized or existing under the laws of any
13 State);

14 (e) "salmon" means any anadromous species of
15 the family Salmonidae and genus *Oncorhynchus*, com-
16 monly known as Pacific salmon, including but not lim-
17 ited to:

Popular names	Scientific name
Chinook or King Salmon	<i>Oncorhynchus tshawytscha</i>
Coho or Silver Salmon	<i>Oncorhynchus kisutch</i>
Pink or Humpback Salmon...	<i>Oncorhynchus gorbuscha</i>
Chum or Dog Salmon.....	<i>Oncorhynchus keta</i>
Sockeye or Red Salmon.....	<i>Oncorhynchus nerka</i>

18 and shall also include Steelhead (*Salmo gairdneri*);

19 (f) "Secretary" means the Secretary of Com-
20 merce;

21 (g) "Treaty" means the Treaty between the Gov-
22 ernment of the United States of America and the Gov-

1 ernment of Canada Concerning Pacific Salmon, signed
2 at Ottawa, January 28, 1985;

3 (h) "treaty Indian tribe" means any of the feder-
4 ally recognized Indian tribes of the Columbia River
5 basin, Washington coast or Puget Sound areas having
6 reserved fishing rights to salmon stocks subject to the
7 Treaty under treaties with the United States Govern-
8 ment; and

9 (i) "United States Section" means the four United
10 States Commissioners appointed by the President pur-
11 suant to this title.

12 **SEC. 3. UNITED STATES SECTION.**

13 (a) **COMMISSIONERS.**—The United States shall be rep-
14 resented on the Commission by four United States Commis-
15 sioners who are knowledgeable or experienced concerning
16 Pacific salmon, to be appointed by and serve at the pleasure
17 of the President. Of these, one shall be an official of the
18 United States Government who shall be a nonvoting member
19 of the United States Section; one shall be a resident of the
20 State of Alaska and shall be appointed from a list of at least
21 six qualified individuals nominated by the Governor of that
22 State; one shall be a resident of the States of Oregon, or
23 Washington and shall be appointed from a list of at least six
24 qualified individuals nominated by the Governors of those
25 States; and one shall be appointed from a list of at least six

1 qualified individuals nominated by the treaty Indian tribes of
2 the States of Idaho, Oregon or Washington. Two of the
3 initial appointments shall be for two-year terms; all other ap-
4 pointments shall be for four-year terms. Each Commissioner
5 is eligible for reappointment. Any individual appointed to fill
6 a vacancy occurring prior to the expiration of any term of
7 office shall be appointed for the remainder of that term.
8 Unless otherwise agreed, the chairmanship of the United
9 States Section shall rotate annually among all four members
10 with the order of rotation determined by lot at the first meet-
11 ing.

12 (b) ALTERNATE COMMISSIONERS.—The Secretary of
13 State, in consultation with the Secretary and the Secretary of
14 the Interior, shall designate an Alternate Commissioner for
15 each Commissioner from the respective lists referred to in
16 Section 3(a), and may designate an Alternate Commissioner
17 for the Federal Commissioner. In the absence of a Commis-
18 sioner, the Alternate Commissioner may exercise all func-
19 tions of such Commissioner at any meeting of the Commis-
20 sion or of the United States Section. Alternate Commission-
21 ers are eligible for reappointment and may attend all meet-
22 ings of the United States Section.

23 (c) SOUTHERN PANEL.—The United States shall be
24 represented on the southern Panel by six Panel members, of
25 whom—

1 (1) one shall be an official of the United States
2 Government, with salmon fishery management respon-
3 sibility and expertise;

4 (2) one shall be an official of the State of Oregon,
5 with salmon fishery management responsibility and ex-
6 pertise;

7 (3) one shall be an official of the State of Wash-
8 ington, with salmon fishery management responsibility
9 and expertise;

10 (4) two shall be appointed from a list submitted by
11 the treaty Indian tribes of individuals with salmon fish-
12 ery management responsibility and expertise; and

13 (5) one shall be appointed from the commercial or
14 recreational sector who is knowledgeable and experi-
15 enced in the salmon fisheries for which the southern
16 Panel is responsible.

17 (d) NORTHERN PANEL.—The United States shall be
18 represented on the northern Panel by six Panel members, of
19 whom—

20 (1) one shall be an official of the United States
21 Government, with salmon fishery management respon-
22 sibility and expertise;

23 (2) one shall be an official of the State of Alaska,
24 with salmon fishery management responsibility and ex-
25 pertise;

1 (3) four shall be individuals knowledgeable and
2 experienced in the salmon fisheries for which the
3 northern Panel is responsible.

4 (e) FRASER RIVER PANEL.—The United States shall
5 be represented on the Fraser River Panel by four Panel
6 members, of whom—

7 (1) one shall be an official of the United States
8 Government, with salmon fishery management respon-
9 sibility and expertise;

10 (2) one shall be an official of the State of Wash-
11 ington, with salmon fishery management responsibility
12 and expertise;

13 (3) one shall be appointed from a list submitted by
14 the treaty Indian tribes of individuals with salmon fish-
15 ery management responsibility and expertise for the
16 fisheries for which the Fraser River Panel is responsi-
17 ble; and

18 (4) one shall be appointed from the commercial
19 sector of the salmon fishing industry concerned with
20 fisheries for which the Fraser River Panel is responsi-
21 ble.

22 (f) PANEL APPOINTMENTS.—Panel members described
23 in subsections (c)(2), (c)(3), (d)(2), and (e)(2) shall be appoint-
24 ed by the Governor of the applicable State. Panel members
25 described in subsections (c)(4) and (e)(3) shall be appointed by

1 the Secretary of the Interior from lists of nominations provid-
2 ed by the appropriate treaty Indian tribes. All other Panel
3 members shall be appointed by the Secretary: *Provided, That*
4 at least one member of the northern Panel shall be a voting
5 member of the North Pacific Fishery Management Council,
6 at least one member of the southern Panel shall be a voting
7 member of the Pacific Fishery Management Council; and the
8 Panel members described in subsections (c)(5), (d)(3), and
9 (e)(4) shall be appointed from lists of nominations provided by
10 the Governors of the applicable States. The appointing au-
11 thorities listed above may also designate an alternate Panel
12 member, meeting the same qualifications and having the
13 same term of office, to service in the absence of a Panel
14 member appointed under this subsection. Panel members and
15 alternate Panel members, other than the southern Panel
16 member described in subsection (c)(5), shall serve four-year
17 terms; except that the Secretary of State shall designate one-
18 half of the initial appointments to each Panel as serving two-
19 year terms. The southern Panel member described in subsec-
20 tion (c)(5) and the corresponding alternate shall each be ap-
21 pointed for one-year terms; the first such member shall be
22 appointed from the commercial sector and an alternate shall
23 be appointed from the recreational sector, with the alternate
24 succeeding to the member position in the subsequent year;
25 thereafter the member and alternate positions shall rotate be-

1 tween the commercial and recreational sectors on an annual
2 basis. Any individual appointed to fill a vacancy occurring
3 prior to the expiration of any term of office shall be appointed
4 for the remainder of that term. Panel members and alternates
5 shall be eligible for reappointment and may attend all meet-
6 ings of the relevant United States Panel Section.

7 (g) VOTING REQUIREMENTS.—(1) The United States
8 Section shall operate with the objective of attaining consen-
9 sus decisions in the development and exercise of its single
10 vote within the Commission. A decision of the United States
11 Section shall be taken when there is no dissenting vote.

12 (2) All decisions and recommendations of the United
13 States Section of the northern and southern Panels shall re-
14 quire the concurring vote of a majority of the United States
15 Panel members present and voting, except that decisions and
16 recommendations of the southern Panel shall require the con-
17 curring vote of the members designated in subsections (c)(2)
18 and (c)(3) and one of those members designated in subsection
19 (c)(4).

20 (3) All decisions and recommendations of the United
21 States Section of the Fraser River Panel shall require the
22 concurring vote of all United States Panel members present
23 and voting, except that orders referred to in article VI(6) of
24 the Treaty may be agreed to on the basis of a majority, pro-

1 vided that the Panel members representing the State and
2 Tribal fishery management authorities concur.

3 (4) All decisions and recommendations of any joint
4 Panel shall require the concurring votes of each Panel under
5 the voting rules specified in paragraphs (2) and (3).

6 (5) To assist in the resolution of disputes affecting deci-
7 sions of the United States Section or of the United States
8 Panel sections, a three-person Conciliation Board may be es-
9 tablished. The members of the Conciliation Board shall be
10 selected by the United States Section as follows: each non-
11 Federal Commissioner shall submit a list of no fewer than
12 three qualified nominees; one person shall be selected from
13 each list by consensus decision of the Federal Commissioner
14 and the other two non-Federal Commissioners. The Concilia-
15 tion Board shall operate under such bylaws as may be estab-
16 lished by the United States Section.

17 (6) In any matter where the Fraser River Panel is
18 unable to act because the United States Fraser River Panel
19 members have been unable to reach a decision in accordance
20 with paragraph (3) of this subsection, and upon a determina-
21 tion by the Chairman of the United States Section that an
22 action of the Panel is required, the United States Section
23 shall act for the United States Panel members in the Fraser
24 River Panel.

1 (7) In any matter where the Secretary of State deter-
2 mines that the United States is in jeopardy of not fulfilling its
3 international obligations under the Treaty, the Secretary of
4 State shall so certify to the United States Section. Such cer-
5 tification shall include the reasons for such determination and
6 shall specify the date by which a decision by the United
7 States Section is desired. If the United States Section has
8 not reached a decision by the date specified, the Secretary of
9 State, after consultation with the Secretary and the Secre-
10 tary of the Interior, shall report on the matter to the Presi-
11 dent.

12 (h) CONSULTATION.—In carrying out their functions
13 under the Treaty, the Commissioners and Panel members
14 may consult with such other interested parties as they con-
15 sider appropriate. The Federal Advisory Committee Act (5
16 U.S.C. App. 1 et seq.) shall not apply.

17 **SEC. 4. AUTHORITY AND RESPONSIBILITY.**

18 (a) The Secretary of State is authorized to—

19 (1) receive and transmit, on behalf of the United
20 States, reports, requests, recommendations, proposals,
21 and other communications of and to the Commission
22 and Panels;

23 (2) in consultation with the Secretary and the
24 Secretary of the Interior, approve, disapprove, object
25 to, or withdraw objections to fishery regimes and

1 Fraser River Panel regulations proposed in accordance
2 with the Treaty; and

3 (3) act upon, or refer to other appropriate author-
4 ity, any communication referred to in paragraph (1) of
5 this subsection other than a proposed fishery regime or
6 Fraser River Panel regulation.

7 (b) Recommendations of the Commission on fishery re-
8 gimes or Fraser River Panel regulations approved by the
9 Secretary of State pursuant to subsection (a)(2) shall be for-
10 warded immediately to the States of Alaska, Oregon, Wash-
11 ington, and Idaho and to the treaty Indian tribes, as appro-
12 priate. In the exercise of their general fishery management
13 authority, the States and treaty Indian tribes may adopt cor-
14 responding laws, regulations or orders within their respective
15 jurisdictions.

16 (c) In cooperation with the appropriate Regional Fish-
17 ery Management Councils, States and treaty Indian tribes,
18 the Secretary shall prepare, as appropriate, all statements,
19 reports, and information required by the Treaty and submit
20 such documents to the Secretary of State, who shall transmit
21 them to the Commission.

22 **SEC. 5. INTERAGENCY COOPERATION.**

23 (a) In carrying out the provisions of the Treaty and this
24 title, the Secretary, in consultation with the Secretary of the
25 Interior, may arrange for cooperation with agencies of the

1 United States, the States, treaty Indian tribes, private insti-
2 tutions and organizations, and may execute such memoranda
3 as may be necessary to reflect such agreements.

4 (b) Agencies of the United States may cooperate in the
5 conduct of scientific and other programs, and may furnish
6 facilities and personnel, for the purposes of assisting the
7 Commission and Panels in carrying out their responsibilities
8 under the Treaty. Such agencies may accept reimbursement
9 from the Commission for providing such services, facilities,
10 and personnel.

11 **SEC. 6. PREEMPTION.**

12 If any State or treaty Indian tribe has taken any action,
13 or omitted to take any action, the results of which place the
14 United States in jeopardy of not fulfilling its international
15 obligations under the Treaty, or any fishery regime or Fraser
16 River Panel regulation adopted thereunder, the Secretary
17 shall inform the State or tribe of the manner in which the
18 action or inaction places the United States in jeopardy of not
19 fulfilling its international obligations under the Treaty, of any
20 remedial action which would relieve this concern, and of the
21 intention to promulgate Federal regulations if such remedial
22 actions are not undertaken within fifteen days unless an earli-
23 er action is required to avoid violation of United States
24 Treaty obligations. Should United States action be required
25 to meet Treaty obligations to Canada in respect to treaty

1 Indian fisheries conducted in terminal areas subject to the
2 continuing jurisdiction of a United States district court, such
3 action shall be taken within the framework of such court ju-
4 risdiction. Otherwise, regulations may be promulgated by the
5 Secretary pursuant to section 7(a) of this title which shall
6 supersede any State or treaty Indian tribal law, regulation or
7 order determined by the Secretary to place United States in
8 jeopardy of not fulfilling its international obligations under
9 the Treaty. Timely notice of all such determinations shall be
10 disseminated by electronic media and shall be published in
11 local newspapers in the major fishing ports affected and in
12 the Federal Register. In order to enable the United States to
13 fulfill its obligations under article IV(7) of the Treaty, the
14 States of Alaska, Idaho, Oregon and Washington and the
15 treaty Indian tribes shall advise the Secretary of all pertinent
16 laws or regulations pertaining to the harvest of Pacific
17 salmon, together with such amendments thereto as may be
18 adopted from time to time.

19 **SEC. 7. RULEMAKING.**

20 (a) The Secretary, in consultation with the Secretary of
21 the Interior, the Secretary of the Department in which the
22 Coast Guard is operating and the appropriate Regional Fish-
23 ery Management Council, shall promulgate such regulations
24 as may be necessary to carry out the United States interna-
25 tional obligations under the Treaty and this title, pursuant to

1 section 6, as well as conforming amendatory regulations ap-
2 plicable to the United States Exclusive Economic Zone. Any
3 such regulation may be made applicable, as necessary, to all
4 persons and all vessels subject to the jurisdiction of the
5 United States, wherever located. Such regulations as are
6 necessary and appropriate to carry out obligations of the
7 United States under the Treaty involve a foreign affairs func-
8 tion, and as such shall not be subject to sections 4 through 8
9 of the Administrative Procedure Act (5 U.S.C. 553-557), the
10 Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.),
11 or the National Environmental Policy Act (42 U.S.C. 4321
12 et seq.).

13 (b) The Secretary, in cooperation with the Regional
14 Fishery Management Councils, States, and treaty Indian
15 tribes, may promulgate regulations applicable to nationals or
16 vessels of the United States, or both, which are in addition
17 to, and not in conflict with, fishery regimes and Fraser River
18 Panel regulations adopted under the Treaty. Such regulations
19 shall not discriminate between residents of different States.

20 (c) Regulations promulgated by the Secretary under this
21 title shall be subject to judicial review by the district courts of
22 the United States to the extent authorized by, and in accord-
23 ance with, chapter 7 of Title 5, United States Code; except
24 that section 705 of such title is not applicable, and the appro-
25 priate court shall only set aside any such regulation on a

1 ground specified in section 706(2) (A), (B), (C), or (D) of such
2 title. A civil action filed pursuant to this section shall be as-
3 signed for hearing at the earliest possible date, shall take
4 precedence over other matters pending on the docket of the
5 United States district court at that time, and shall be expedit-
6 ed in every way by such court and any appellate court.

7 **SEC. 8. PROHIBITED ACTS AND PENALTIES.**

8 (a) It is unlawful for any person or vessel subject to the
9 jurisdiction of the United States—

10 (1) to violate any provision of this title, or of any
11 regulation adopted hereunder, or of any Fraser River
12 Panel regulation approved by the United States under
13 the Treaty;

14 (2) to refuse to permit any officer authorized to
15 enforce the provisions of this title to board a fishing
16 vessel subject to such person's control for purposes of
17 conducting any search or inspection in connection with
18 the enforcement of this title;

19 (3) to forcibly assault, resist, oppose, impede, in-
20 timidate, or interfere with any such authorized officer
21 in the conduct of any search or inspection described in
22 subparagraph (2);

23 (4) to resist a lawful arrest for any act prohibited
24 by this section;

1 (5) to ship, transport, offer for sale, sell, purchase,
2 import, export, or have custody, control, or possession
3 of, any fish taken or retained in violation of this title;
4 or

5 (6) to interfere with, delay, or prevent, by any
6 means, the apprehension or arrest of another person,
7 knowing that such other person has committed any act
8 prohibited by this section.

9 (b) Any person who commits any act that is unlawful
10 under subsection (a) of this section shall be liable to the
11 United States for a civil penalty as provided by section 308
12 of the Magnuson Act (16 U.S.C. 1858).

13 (c) Any person who commits an act that is unlawful
14 under paragraph (2), (3), (4), or (6) of subsection (a) of this
15 section shall be guilty of an offense punishable as provided by
16 section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

17 (d)(1) Any vessel (including its gear, furniture, appurte-
18 nances, stores, and cargo) used in the commission of an act
19 which is prohibited under subsection (a) of this section, and
20 any fish (or the fair market value thereof) taken or retained,
21 in any manner, in connection with or as a result of the com-
22 mission of any act which is prohibited by subsection (a) of this
23 section, shall be subject to forfeiture as provided by section
24 310 of the Magnuson Act (16 U.S.C. 1860).

1 (2) Any fish seized pursuant to this title may be disposed
2 of pursuant to the order of a court of competent jurisdiction
3 or, if perishable, in a manner prescribed by regulation of the
4 Secretary.

5 (e) The Secretary and the Secretary of the Department
6 in which the Coast Guard is operating shall enforce the pro-
7 visions of this title and shall have the authority provided by
8 subsections 311(a), (b)(1), and (c) of the Magnuson Act 16
9 U.S.C. 1861(a), (b)(1), and (c)).

10 (f) The district courts of the United States shall have
11 exclusive jurisdiction over any case or controversy arising
12 under this section and may, at any time—

13 (1) enter restraining orders or prohibitions;

14 (2) issue warrants, process in rem, or other
15 process;

16 (3) prescribe and accept satisfactory bonds
17 other security; and

18 (4) take such other actions as are in the interest
19 of justice.

20 **SEC. 9. GENERAL STANDARD.**

21 All actions taken under sections 3(g), 4, 6, and
22 shall—

23 (a) take into account the best scientific infor-
24 mation available,

1 (b) result in measures necessary and appropriate
2 for the conservation, management, utilization and de-
3 velopment of the Pacific salmon resource, with due
4 consideration of social and economic concerns, and

5 (c) be consistent with United States obligations
6 under the Treaty, domestic Indian treaties and other
7 applicable law.

8 **SEC. 10. ADVISORY COMMITTEE.**

9 (a) The United States Section shall appoint an advisory
10 committee of not less than twelve but not more than twenty
11 members who are knowledgeable and experienced with re-
12 spect to fisheries subject to the Treaty. One-half the member-
13 ship of the committee shall be residents of the State of
14 Alaska and one member shall be a resident of the State of
15 Idaho. Each member shall serve a term of two years and
16 shall be eligible for reappointment.

17 (b) Members of the advisory committee may attend all
18 public meetings of the Commission and Panels and all nonex-
19 ecutive sessions of the United States Section and United
20 States Panel sections. At nonexecutive meetings of the
21 United States Section and United States Panel sections,
22 members of the advisory committee shall be given the oppor-
23 tunity to examine and to be heard on any nonadministrative
24 matter under consideration.

1 (c) The members of the advisory committee shall receive
2 no compensation for their services as such members. On ap-
3 proval of the United States Section, not more than six mem-
4 bers of the committee shall be reimbursed for necessary
5 travel expenses as provided in section 12(a) of this title.

6 (d) The Chairman of the United States Section shall call
7 a meeting of the advisory committee at least one time each
8 year.

9 SEC. 11. ADMINISTRATIVE MATTERS.

10 (a) Except as provided in subsection (b), below, individ-
11 uals who serve as Commissioners, Panel members, alternate
12 Commissioners, alternate Panel members or advisory com-
13 mittee members shall not receive any compensation for such
14 service. Except for officials of the United States Government,
15 such individuals shall not be considered to be Federal em-
16 ployees while performing such service, except for the pur-
17 poses of injury compensation or tort claims liability as provid-
18 ed in chapter 81 of title 5, United States Code, and chapter
19 171 of title 28, United States Code.

20 (b) During the first two years following entry into force
21 of the Treaty, Commissioners and alternate Commissioners
22 who are not State or Federal employees shall receive com-
23 pensation at the daily rate for GS-16 of the General Sched-
24 ule when engaged in the actual performance of duties for the
25 United States Section or for the Commission.

1 SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

2 There are authorized to be appropriated from time to
3 time such sums as may be necessary for carrying out the
4 purposes and provisions of the Treaty and this title
5 including—

6 (a) necessary travel expenses of the Commission-
7 ers, Panel members, alternate Commissioners, alter-
8 nate Panel members, United States members of joint
9 technical committees established under article IV of
10 the Treaty, and advisory committee members in ac-
11 cordance with the Federal Travel Regulations and sec-
12 tions 5701, 5702, 5704 through 5708, and 5731 of
13 title 5, United States Code;

14 (b) the United States share of the joint expenses
15 of the Commission: *Provided*, That the United States
16 Commissioners and Panel members and alternates shall
17 not, with respect to commitments concerning the United
18 States share of the joint expenses of the Organization,
19 be subject to section 262b of title 22, United States
20 Code, insofar as it limits the authority of United States
21 representatives to international organizations with re-
22 spect to such commitments;

23 (c) amounts for research, enhancement, and other
24 activities necessary to carry out the purposes of the
25 Treaty and this title; and

1 (d) such amounts as may be due to settle accounts
2 upon termination of the International Pacific Salmon
3 Fisheries Commission.

4 **SEC. 13. REPEALER.**

5 The Sockeye Salmon or Pink Salmon Fishing Act of
6 July 29, 1947 (16 U.S.C. 776-776f), as amended by the Act
7 of July 11, 1957, sections 1-3, is repealed, effective Decem-
8 ber 31, 1985. The Secretary of State shall dispose of any
9 United States property held by the International Pacific
10 Salmon Fisheries Commission on the date of its termination
11 in a manner which would further the purposes of this title.

12 **SEC. 14. SAVINGS.**

13 This title shall not be interpreted or applied so as to
14 affect or modify rights established in existing Indian treaties
15 and other existing Federal laws, including the Order entered
16 in Confederated Tribes and Bands of the Yakima Indian Na-
17 tional v. Baldrige, Civil Nos. 80-342, 80-343, and 80-344
18 (WD WASH.). This section shall not be interpreted or ap-
19 plied so as to affect or modify any rights or obligations of the
20 United States pursuant to the Treaty.

Senator GORTON. We have listed as our first two witnesses, our first panel, two individuals who deserve tremendous credit for the success we have attained so far, Hon. Edward Derwinski, Counselor of the Department of State, and Mr. Theodore Kronmiller who was the chief negotiator for the United States.

Senators Packwood and Hollings have other commitments at this time but I have their opening statements for the record.

[The statements follow:]

OPENING STATEMENT BY SENATOR PACKWOOD

Mr. Chairman, I am very pleased that the Commerce Committee has agreed to hold a hearing today on S. 516, a bill to implement the United States-Canada Pacific Salmon Treaty.

On behalf of the State of Oregon, I strongly support prompt Senate action to ratify the Pacific Salmon Treaty and enact the implementing legislation which is currently before this committee. Speedy congressional action is essential in order to implement the treaty before the major 1985 Pacific Salmon fishing season.

This treaty represents a major step forward on an issue which has been under negotiation for nearly 15 years, namely, the cooperative management and enhancement of our Pacific Northwest salmon resource. There is probably no other issue in which the interests of Oregon, Washington, Alaska, and Canada are intertwined as much as the management of salmon. For years the Pacific salmon stocks have suffered from habitat depletion and overfishing. The uncontrolled interception of salmon by Canadian and United States fishermen as a result of salmon migrations have increasingly served to exacerbate the decline in the salmon stocks.

The treaty is intended to resolve these problems. This treaty will establish a United States-Canada commission and three advisory panels which will implement a coastwide salmon management plan designed to:

(1) Prevent overfishing by eliminating the unlimited interception of salmon; (2) Provide for the optimum production of salmon through increased hatchery and habitat improvements; and (3) Provide that each party participating in the treaty receive benefits equivalent to the production of salmon originating in its waters.

This treaty stands as a credit to the persistence and determination of the entire United States-Canada negotiating team. In the process of resolving this treaty, the U.S. delegation has been successful in securing the wide-spread endorsement of treaty Indian tribes, commercial and sport fishermen, and officials in each of the affected States. Rarely, have I seen such unanimity amongst the fishing community.

The Pacific salmon treaty is essential for the protection and enhancement of our Pacific salmon resource. I strongly urge my colleagues to join me in supporting this treaty and S. 516 the bill to implement the United States-Canada Pacific Salmon Treaty.

Again, I thank the chairman and commend him on holding this hearing on this very important issue.

OPENING STATEMENT BY SENATOR HOLLINGS

Mr. Chairman, I am gratified to see that the United States and Canada have finally had a meeting of the minds on the difficult issue of Pacific salmon resources. Negotiations on this issue have been going on for about as long as I have served in the United States Senate. With all the different interests that feel strongly about salmon, it is a real credit to the U.S. and Canadian negotiating teams that a treaty with broad political support has been worked out.

I look forward to hearing from today's witnesses regarding the implementing legislation for this treaty. If at all possible it would seem to be in the best interests of the United States to act promptly on the treaty and implementing legislation so both countries can go about the business of cooperatively conserving these valuable fishery resources. I am concerned, however, about proposals for very substantial U.S. expenditures for the enhancement of these salmon stocks. The NOAA and National Marine Fisheries Service budgets are under great strain. I anticipate that in making commitments for spending on research or enhancement under the treaty, the U.S. government will make such commitments subject to approval in appropriation acts.

Senator GORTON. Gentlemen, Senator Evans has expressed a wish to come and testify as well, and we will take him out first.

But first, I defer to Senator Stevens.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. I have an opening statement at this time, thank you.

We are reviewing today legislation which will implement the culmination of over 15 years of negotiations between the United States and Canada on salmon management. Everyone has made tough concessions so that we could reach an agreement. Counselor Derwinski deserves recognition for contributions in keeping the negotiating process moving in a timely fashion. Chief Negotiator Kronmiller must be praised for his masterful juggling of the diverse needs among the various parties within the U.S. delegation.

The Senators of the Pacific Northwest and Alaska appear to be all in accord that this implementing legislation needed to be developed by the parties to the negotiations during their last meeting in Seattle. The parties involved in the negotiations also agreed that the legislation should reflect the compromises that were arrived at in Seattle.

Therefore, it is troubling for me to hear that the Office of Management and Budget has indicated that it does not support the implementing legislation that was agreed to in Seattle. I am also concerned about the apparent confusion over whether the treaty, as implemented by this legislation, obligates the Federal Government to assist in the mitigation of the economic hardships which will result from the terms of the rebuilding process. Specifically, that the legislation must interpreted to authorize enhancement funding for mitigation purposes.

This hearing provides a convenient forum for us to clarify these ambiguities.

Senator GORTON. Senator Evans.

STATEMENT OF HON. DANIEL J. EVANS, U.S. SENATOR FROM WASHINGTON

Senator EVANS. Thank you, Mr. Chairman. I will just take a few moments to say to this committee, as I did to the Foreign Relations Committee, how much gratitude I feel for the two witnesses in front of us. Counselor Derwinski and Mr. Kronmiller have done a remarkable job in helping bring some disparate groups together to continue to persist to inveigle, through whatever else was necessary, to help bring those groups together and to bring us to this point, the eve of success, the culmination of almost 15 years of negotiations to do something absolutely necessary, in my view, for the retention of that important and traditional resource for the Northwest and for the Pacific.

Nothing is more traditional than the fishing of our Indian tribes for food and for ceremonial purposes. It goes back for centuries. Nothing was more important to our early economy in the Northwest than the commercial catching of fish. I can tell you from personal experience, nothing is more thrilling than, as a sportsman, trying and occasionally successfully catching fish, and I think nothing has more potential significance than the restoration of that resource for all of those purposes.

I think that the most important single step we can take in the restoration of that resource is the successful conclusion of the United States-Canada treaty which gives us a chance in a comprehensive way to deal with the biological problems, the fact that fish do not respect national/international boundaries, and once we have that kind of treaty and a joint effort in restoring the resource, I think we will begin an era that will accrue to the great benefit of all of us.

And, Mr. Chairman, I urge, along with the witnesses in front of us and those who will come, that the Congress act promptly on both the implementing legislation and on the treaty itself in order to get this behind us.

Senator GORTON. Thank you, Senator Evans.

Mr. Derwinski, with another expression of my congratulations to you for the marvelous job that you have done. You may proceed in any way you wish; your statement will be included in the record.

STATEMENT OF EDWARD J. DERWINSKI, COUNSELOR, DEPARTMENT OF STATE; ACCOMPANIED BY THEODORE KRONMILLER; AND JOY YANAGIDA; AND MARY WALKER, DEPUTY SOLICITOR, DEPARTMENT OF THE INTERIOR

Mr. DERWINSKI. Thank you, Mr. Chairman, I will present just a summary.

Mr. Chairman, in addition to Mr. Kronmiller, I am accompanied by Mary Walker, the Deputy Solicitor of the Department of the Interior, and Joy Yanagida of the Department of State.

Now, as you know, Mr. Chairman, this treaty is basically the result of 15 years of difficult negotiations. And as you properly indicated in your introductory statement, we believe that it will serve the best interests of both countries, of the affected States of the United States of America, and will serve in a very practical fashion to rebuild the very valued salmon resource for the users of both countries along the Pacific Coast.

This treaty is also a symbol of the administration's efforts to solve the bilateral problems that exist between the United States and Canada, and I might mention there isn't a situation in the world quite like the United States-Canadian friendship, but we too often take each other for granted and problems such as these must be directly addressed.

The treaty and its annexes represent a delicate balance of give and take between the tribal, commercial and sports groups in the Pacific Northwest and Alaska. The treaty and its annexes, your implementing legislation, as well as the all-citizens lawsuit agreement to be submitted to the court—all reflect a very delicate compromise.

I must emphasize, Mr. Chairman, that this compromise was the result of a very positive attitude by all groups concerned. And I, however, would be remiss if I didn't point out that the real hero of the negotiations is the gentleman on my left, Mr. Ted Kronmiller. His grasp of the subject and his delicate manner in which he handled all the possible conflicting forces gave us the opportunity to finally pull this treaty together.

We also had tremendous support from the Governors of the affected States. Three State commissioners, Don Collingsworth of Alaska, Bill Wilkerson of Washington, and Jack Donaldson of Oregon, were especially helpful. The spokesmen for the various tribes, the spokesmen for commercial and sports fishing groups, all had an input into the negotiations.

As you know, Mr. Chairman, one of the points which we received at this stage is the cooperation of the Congress in attempting to expedite the legislative process so everything will fall into place prior to the President's trip to Canada in mid-March. The House is expected to take its bill up on Tuesday, and we would hope there would be no changes in that intended schedule.

I would just like to wrap up by saying Ted Kronmiller will present the details of the treaty, and I again emphasize on behalf of the administration our appreciation for the attention and special efforts that you are giving us in expediting the legislative process. [The statement follows:]

STATEMENT OF EDWARD J. DERWINSKI, COUNSELOR, DEPARTMENT OF STATE

Mr. Chairman: I am pleased to meet with you today to testify in favor of Senate bill S.R. 516 to implement the U.S.-Canada Pacific Salmon Treaty.

Let me say a few words first about the political significance of the Treaty, to which S.R. 516 is related, and then ask Mr. Ted Kronmiller to give the Administration's detailed views on S.R. 516.

This Treaty, along with its annexes and a Memorandum of Understanding, was signed in Ottawa on January 25, 1985, after nearly 15 years of negotiations. The Treaty will serve to rebuild a valued salmon resource for the users of both countries along the Pacific Coast. The Treaty is also a symbol of the Administration's effort to improve the quality of our bilateral relationship with our good neighbors to the north, and to resolve outstanding problems in a mutually-beneficial way.

Last summer, during one of his periodic meetings with his Canadian counterparts, Secretary Shultz and then-Foreign Minister MacEachen agreed to appoint "overscers" at a senior level to monitor the negotiations and provide assistance as required to get the talks moving again.

Mr. Shultz asked me to take on this job for the United States and the Canadian Government appointed Mr. Mitchell Sharp, a former Minister of External Affairs and former holder of other senior Cabinet posts. Mr. Sharp is a world-renowned statesman and an eloquent advocate of his country's interests. The new government of Prime Minister Mulroney retained Mr. Sharp in this position as an indication of his government's desire to insulate the negotiations from political partisanship and sustain the negotiating momentum then being developed.

The proposed U.S.-Canada Pacific Salmon Treaty is one of the first concrete results of the new dialogue between Canada and the United States. It is designed, as I mentioned, to rebuild the Pacific Salmon population for the long term benefit of users in both countries. To achieve this result, many user groups in both countries have had to make difficult adjustments or reallocations in the short run. However, there has been a remarkable consensus among both the American and Canadian delegations that despite the unhappy need to allocate scarcity in the short run, all parties will benefit greatly over time from the enhancement plans incorporated in the Treaty and from the careful management of the salmon resource by the U.S.-Canada joint Commission, as outlined in the Treaty and the Bill.

The Treaty and its annexes thus represents a delicate balance of give and take, especially by tribal, commercial and sports groups in the Pacific Northwest and Alaska. The Treaty and its annexes, the implementing legislation contained in S.R. 516, and a companion agreement to be submitted in the courts, reflect a set of delicate compromises. It is clear to all involved in these negotiations that changes or amendments to any one of these documents will have an adverse chain reaction that will fatally damage the consensus underpinning the Treaty. For these reasons, Mr. Chairman, the Administration is particularly anxious that S.R. 516 be passed in its current, agreed form without further substantive changes.

I must mention that one of the important reasons the U.S. delegation was able to achieve a consensus during this last round of negotiations was the extraordinary

work of the chief negotiator, Ted Kronmiller. Ted's performance has been truly outstanding. He has a complete grasp of all the complexities of the Pacific salmon issue, and has led his diverse delegation with unusual sensitivity and diplomatic skills.

I am pleased to report that the Governors of the states directly concerned—Governor Sheffield of Alaska, Governor Atiyeh of Oregon, Governor Evans of Idaho, and Governor Gardner of Washington (as well as former Governor Spellman) have all indicated their warm support of the Treaty.

The three state Commissioners, Mr. Don Collingsworth of Alaska, Mr. Bill Wilkerson of Washington, and Mr. Jack Donaldson of Oregon, constituted the backbone of the negotiating team. Without their leadership and cooperation, it is unlikely we could have succeeded. Many other individuals representing the treaty Indian Tribes, commercial and sports fishing groups, and the federal government agencies, all contributed enormous amounts of time and energy; unfortunately there are too many to list here.

Finally, Mr. Chairman, I want to thank you and members of this Committee who have been so helpful in arranging for prompt consideration of this implementing legislation.

If as a result of our mutual efforts all the legislative pieces fall into place in the next week or so, the Pacific Salmon Treaty will serve as a centerpiece during President Reagan's trip to Canada in mid-March and as a further example of the practical progress that the United States and Canada can achieve in an atmosphere of mutual confidence and understanding.

Senator GORTON. Mr. Kronmiller, I doubt that as recently as a few months ago, you thought you would, one, be here under these circumstances so soon; or, two, that you would hear as many nice things as have been said about you during the course of the last two or three months.

They are all deserved, however. We are delighted to have you here. You have played a virtually important role, perhaps the most important role, in getting us to this point. And we would now like to hear your advice and counsel to us as we go forward.

Mr. KRONMILLER. Thank you very much, Senator. You are quite right. In fact, until Counselor Derwinski became involved in the process, I did not have a great deal of optimism about its outcome. And I think notwithstanding his disclaimer, that we ought to give him the enormous credit that is due to him for the work that he did on the delegation and in his work with the Canadian side. He was indeed the principal political link to Canada in this process and at moments—and believe me, there were at least a few of them when we were up against the wall in these negotiations—Counselor Derwinski intervened extremely effectively with members of our delegation and with the Canadians to resolve the problem that were facing us.

So I think that we should all thank him for that enormously effective and very successful work.

I do appreciate the opportunity to appear before the committee to testify on S. 516, a bill to implement the United States-Canada Pacific Salmon Treaty. I fully support the legislation which will enable the United States to meet its international obligations in a manner that best serves its many domestic interests.

Last week, Counselor Derwinski and I appeared before the Senate Foreign Relations Committee, as you know, to urge advice and consent of the Senate to ratification of the treaty. Earlier this week, we appeared before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment to indicate our support for H.R. 1093, the companion measure to S. 516.

We were pleased to support both the treaty and the legislation with the strong and widespread backing of the affected States, treaty Indian tribes, and commercial and sports fishermen.

A unified delegation position on the treaty and related matters emerged only after many years of difficult internal negotiations among the treaty Indian tribes, the State of Alaska, the States of Washington and Oregon, among organizations of commercial and recreational fishermen, and among various commercial fishing gear groups.

Each was represented on the United States delegation which came to number more than 100 people. Often there were disagreements, and they made it difficult for us to arrive at national positions.

However, as Counselor Derwinski has observed, and because of his fine work, it was possible for each one of the members of the delegation ultimately to accommodate the interests of the other, and we were able in the end to gain Canadian agreement to a treaty that met the requirements of our delegation.

The support of the U.S. delegation for the treaty and for its early implementation warrants expedited action by the Administration and the Congress on this essential legislation. Early enactment of this legislation will make it possible to implement the treaty for the major 1985 Pacific salmon fishing seasons.

Response of the executive branch and both Houses of Congress, and support of the interested groups in the region reflects the importances attached to achieving an immediate and effective answer to the severe conservation problems of Pacific salmon.

We deeply appreciate the prompt consideration of the legislation by this committee.

S. 516 identifies the roles of the Federal Government, the States of Washington, Oregon, and Alaska, the treaty Indian tribes, and the commercial and recreational fishing sectors under the new treaty. The bill identifies how decisions will be taken by the U.S. sections of the Treaty Commission and panels.

As you might expect, these matters are of great importance to those concerned in the Pacific Northwest and Alaska. Most of the domestic salmon fisheries regulations that will be required by the treaty will relate to fisheries now under State or tribal management. It is natural that those authorities insist that their management responsibilities not be supplanted by decisions of the Federal Government.

On the other hand, it is reasonable that the Federal Government make certain that the United States can meet its obligations under the treaty. The bill which has been introduced strikes an ideal balance with these legitimate interests.

S. 516 leaves it to the States and the treaty Indian tribes to regulate the fisheries, subject to their jurisdiction, in a manner consistent with our bilateral treaty obligations. At the same time, the bill provides the Federal Government the right to preempt State or tribal regulations which would violate those obligations.

Because preemption is an extraordinary power, intended only for the most critical situations, the role reserved by S. 516 to State and tribal managers is fundamental to the successful implementation of the treaty. The proposed legislation provides for full participa-

tion by the States and treaty Indian tribes in the development of international obligations under the treaty.

As my prepared statement points out in detail, States and treaty Indian tribes are assured greater power in the U.S. section than is provided the Federal Government.

Mr. Chairman, it was understood by all members of the U.S. delegation that to resolve the critical issues relating to the management of Pacific salmon, it would be necessary, but not sufficient, to negotiate an acceptable treaty with Canada.

It was agreed that two domestic matters also had to be satisfactorily resolved. One of those matters was the adoption of implementing legislation which would resolve the domestic political, economic, and legal issues. That legislation is before this committee.

In my estimation, any amendment to the provisions of S. 516 that would relate to the essential balances of which I have spoken would be opposed by one or another of the key constituent interests.

The other matter was a resolution of the all-citizens lawsuit. I am pleased to report that the stipulation settling critical issues of that lawsuit has been signed by the representatives of Alaska, Oregon, Washington State, the treaty Indian tribes, and the Federal Government.

Mr. Chairman, it has been a rewarding challenge to serve as the U.S. negotiator. It was a privilege to work with the delegation of Americans who successfully overcame, by enormous effort, by great patience, and by good will, the deep and painful conflicts of many years. It was also gratifying to have the assistance of yourself and others Senators in reigniting the treaty process when it became apparent that otherwise it simply was not going to be restarted after a breakdown last year.

The treaty is not without its disappointments to various affected interests on both sides of the border. But the treaty has the support of the U.S. delegation and the administration and of the Canadian Government, because bilateral cooperation is essential to the effective conservation and management of Pacific salmon stocks intercepted by the fishermen of each country.

The enactment of this enabling legislation, a goal sought for over 15 years by the fishermen, by the communities, by the representatives in Congress, by the Federal agencies, and by the affected State governments and tribes will at last be realized.

I urge you to act favorably on S. 516 as quickly as possible. Thank you.

[The statement follows:]

STATEMENT OF THEODORE G. KRONMILLER

Mr. Chairman: I appreciate the opportunity to appear before the Committee to testify on S. 516, a bill to implement the U.S.-Canada Pacific Salmon Treaty. For the past two years, it was my honor to serve as the United States negotiator for the Treaty.

Last week, I appeared before the Senate Foreign Relations Committee to urge advice and consent of the Senate to ratification of the Treaty. Earlier this week, I testified before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment in favor of H.R. 1093, the House companion measure to the Senate bill. I was please to do so with the strong and widespread support of the affected States, treaty Indian tribes, and commercial and sports fishermen.

A detailed description of the Treaty is found in my testimony before the Senate Foreign Relations Committee. I would like to request that house remarks be included in this hearing record.

Mr. Chairman, the Administration strongly supports S. 516. It is a matter of record that non-federal members of the U.S. Delegation to the Treaty negotiations sought only minor fiscal amendments.

A consensus position on the Treaty and the essential elements of the implementing legislation was not easily won. The United States confronted an internal negotiation among the treaty Indian tribes, the State of Alaska, and the States of Washington and Oregon, among organizations of commercial and recreational fishermen, and among various commercial fishing gear groups. Each was represented on the United States delegation, which grew over the years to number more than one hundred persons. Often the disagreements made it difficult to put forward national position. In the end, it was only because each member of our Delegation was willing to respect and accommodate the basic interests of the others, that we were able to reach agreement on the Treaty. For his special contributions to the development of the consensus, we owe Counselor Derwinski, the political overseer of our delegation, a particular debt of gratitude.

The support of the United States Delegation for the Treaty and for its early implementation warrants prompt action by the Administration and the Congress on this essential legislation. Early enactment of this legislation will make it possible to implement the Treaty before the major 1985 Pacific salmon fishing seasons. The response of the Executive Branch and both Houses of Congress, with the support of the interested State and tribal managers, and the many user groups, reflects the importance that is attached to achieving an immediate and effective answer to the severe conservation problems of Pacific salmon.

The Treaty provides for a new intergovernmental institution, the U.S.-Canada Pacific Salmon Commission, with three associated Panels, Northern, Southern, and Fraser River. The Commission and Panels will have the responsibility to develop regimes for fisheries in which the fishermen of one country intercept Pacific salmon spawned in the rivers of the other, and to establish Fraser River fisheries regulations corresponding generally to those now developed by the International Pacific Salmon Fisheries Commission.

S. 516 identifies the roles of the Federal Government, the States of Washington, Oregon, and Alaska, the treaty Indian tribes, and the commercial and recreational fishing sectors. The bill also identifies how decisions will be taken by the United States sections of the Commission and Panels.

As you might expect, these matters are of great importance to those concerned in the Pacific Northwest and Alaska. Most of the domestic salmon fisheries regulations that will be required by the Treaty will relate to fisheries now under State or tribal management. It is natural that those authorities insist that their management responsibilities not be supplanted by decisions of the Federal Government. On the other hand, it is reasonable that the Federal Government make certain that the United States can meet its obligations under the Treaty. The bill which has been introduced strikes an ideal balance of these legitimate interests.

S. 516 leaves it to the States and the treaty Indian tribes to regulate the fisheries subject to their jurisdiction in a manner consistent with our bilateral Treaty obligations. At the same time, the bill provides the Federal Government the right to preempt State or tribal regulations which would violate those obligations. Because preemption is an extraordinary power intended for only the most critical situations, the role reserved by S. 516 to State and tribal managers is fundamental to the successful implementation of the Treaty. The proposed legislation provides for full participation by the States and treaty Indian tribes in the development of international obligations under the Pacific Salmon Treaty. Indeed, as I shall describe, States and treaty Indian tribes are assured greater power in the U.S. section than is provided the Federal Government.

S. 516 provides that the U.S. section of the Commission will be composed of four persons appointed by the President. There will be a federal official, a person appointed from a list submitted by the Governors of Washington and Oregon, a person appointed from a list submitted by the Governor of Alaska, and a person appointed from a list provided by the treaty Indian tribes of Idaho, Oregon, or Washington.

Decisions of the U.S. section will be taken by consensus. The federal commissioner will not have a vote, but will be expected to play an important advisory and conciliatory role.

S. 516 ensures that the composition and voting arrangements for the Panels will also be fair and reasonable. The bill provides an appropriate balance among the federal agencies, the State and tribal management entities, and the fishermen.

As you know, following the "Boldt Decision", some difficulty was encountered in providing for U.S. treaty Indian participation in the regulatory process of the International Pacific Salmon Fisheries Commission. At long last, this matter will be put behind us. The Pacific Salmon Treaty clearly provides for such participation, and this bill ensures the treaty Indian tribes will have a voice, not only in the U.S. section of the Commission, but also on the Fraser River and Southern Panels.

The U.S. section of the Fraser River Panel will be made up of a federal official, an official from Washington State, a person nominated by the treaty Indian tribes that fish the Fraser River salmon, and a commercial fisherman. These four must concur on the pre-season management positions to be taken by the United States, thus ensuring industry, the tribes, and the State of Washington important roles in the establishment of the basic regime for each season. However, S. 516 reflects the reality that, for in-season adjustments, the principal decision making power should rest with Washington State and the treaty Indian tribes. For such adjustments, a majority vote, with a concurrence of the state and tribal Panel members, is required. This permits the two principal management units to act expeditiously during the fishing season.

The United States will be represented on the Southern Panel by six members, one federal, one from the State of Oregon, one from the State of Washington, two from the treaty Indian tribes, and one from the commercial or recreational sector (alternating each year). At least one member will have to be a voting member of the Pacific Fishery Management Council. Decisions and recommendations of the Southern Panel will require a concurring vote of the Oregon and Washington representatives and one tribal representative. In addition, the Southern Panel will require concurring votes of the majority of all Panel members present.

The Northern Panel will be comprised of six members on the U.S. side, one federal, one from the Government of the State of Alaska, and four others who are knowledgeable and experienced in salmon fisheries in the Northern Panel jurisdiction. At least one member will have to be a voting member of the North Pacific Fishery Management Council. All decisions and recommendations of the Northern Panel will require concurring votes of the majority of Panel members present.

Mr. Chairman, it was understood by all members of the U.S. Delegation that, to resolve the critical issues relating to the management of Pacific salmon, it would be necessary, but not sufficient, to negotiate an acceptable treaty with Canada. It was agreed that two domestic matters also had to be satisfactorily resolved. One of those matters was the adoption of implementing legislation which would resolve the domestic, political, economic, and legal issues. That legislation is before this Subcommittee. In my estimation, any amendment to the provisions of S. 516 that would relate to the essential balances of which I have spoken would be opposed by one or another of the constituent interests. Minor fiscal matters aside, S. 516 as drafted is strongly supported by all concerned domestic interests as a pragmatic accommodation.

The other matter was the resolution of the "All Citizens" lawsuit. I am pleased to report that a stipulation settling critical issues of that lawsuit is soon to be filed by representatives of Alaska, Washington, Oregon, the treaty Indian tribes, and the Federal Government.

Mr. Chairman, it has been a rewarding challenge to serve as the United States negotiator. It was a privilege to work with a delegation of Americans who successfully overcame, by enormous effort, by great patience, and by good will, the deep and painful conflicts of many years.

The Treaty is not without its disappointments to various affected interests on both sides of the border. But the Treaty has the support of the United States Delegation and the Administration, and of the Canadian Government, because bilateral cooperation is essential to the effective conservation and management of the Pacific salmon stocks intercepted by the fishermen of each country. With the enactment of this enabling legislation, a goal sought over fifteen years by the fishermen, by their communities, by their representatives in Congress, by the federal agencies, and by the affected States and tribes, will at last be realized.

I urge you to act favorably on S. 516 as quickly as possible.

Thank you.

Senator GORTON. Thank you very much.

With respect to almost all of my questions, I will be happy to have either of you two provide the answer, or both of you to contribute to the answer as you deem fit.

Will implementation of the equity principle which is at the heart of this treaty require additional research to determine the level of interceptions for each fishery?

Mr. KRONMILLER. Mr. Chairman, there will indeed be a requirement for additional research to attend to that issue. At this point there is a great deal that we don't know about a number of the stocks that are intercepted by the fishermen of both nations.

In order to determine whether there is an equity imbalance between the United States and Canada coastwide, it will be essential to have a full assessment of the interceptions by the fishermen of each country. That is going to require additional research.

Senator GORTON. How long is that likely to take? And what does that do to the timeframe for implementing the equity principle?

Mr. KRONMILLER. I know that there has been some concern expressed about attempts that might be made to implement the equity principle quickly. I think, however, for reasons that I have described, principally relating to the lack of data on interceptions in many cases, it will be impossible to implement the equity principle for quite a long period of time.

This is a long-term obligation. We will need time to make the research assessments that are required in order to implement that principle.

Senator GORTON. You will work toward allowing equity in stages then?

Mr. KRONMILLER. Exactly.

Senator GORTON. Does the administration support enhancement, as defined in article 1 of the treaty, in order to address imbalances created by the implementation of the equity principle?

Mr. KRONMILLER. Yes, Senator. It is essential that the administration support that element of the treaty. It is an obligation of the United States under the treaty, and I might add that it reflects an expectation on the part of the U.S. fishermen that was critical to their agreement to go along with this treaty. And I believe that it will be incumbent upon the administration to ensure that adequate funding is made available for enhancement to reach this obligation and these expectations.

Senator GORTON. Mr. Derwinski, has Secretary Shultz made a commitment to enhancement and to research?

Mr. DERWINSKI. Secretary Shultz has made a very personal commitment to, first of all, the treaty process and, therefore, everything that flows from it. We believe very strongly, as Mr. Kronmiller just indicated, that as part of these negotiations there is the ongoing commitment of the Federal Government to support the necessary enhancement goals.

And there is the treaty obligation; it is an international agreement; it will have the continued positive support of the Department of State.

Senator GORTON. Under the circumstances, isn't the administration's proposal to eliminate funding for the Columbia River hatcheries inconsistent with the commitments being made by the administration for enhancement pursuant to the treaty?

Mr. DERWINSKI. It is one of the classic cases of the right hand of Government perhaps not knowing what the left hand is doing, and I think we have all had our sparring matches with OMB and will

have more to come. But in the priorities of the Department of State, this treaty ranks very high, and the commitment involved is one that we feel very deeply about and will continue to have our total support.

Senator GORTON. In other words, the Mitchell Act hatcheries, which have been a U.S. obligation for a number of years now, in a real sense become an international obligation, don't they?

Mr. DERWINSKI. If that is the way we have to sell it and get the funding, yes.

Senator GORTON. Can you review the decisionmaking process that took place with respect to the composition of the northern and southern panels? Some user groups in Washington have expressed dismay that only one voting member of the southern panel is selected to represent both recreational and commercial fishing interests.

Mr. KRONMILLER. Mr. Chairman, perhaps I can respond to that question. The legislation was the product of lengthy and intensive negotiations within the U.S. delegation, negotiations in which commercial and recreational fishermen took an active part.

I would add also that though I regret that there may be some concerns and perhaps some objections to this legislation at this stage, it was adopted by consensus of the U.S. delegation for forwarding to the administration and the Congress. And it was legislation that was negotiated to effect a balance that everyone felt was there in the end, between recreational and commercial interests and the interests of the States and Federal Government.

So I think that the best answer to your question is we all felt, after a good deal of deliberation, that the accommodation worked out and the bill that you see before you was the best that could be attained, and is a fair reflection of the respective interests of the various parties affected by this treaty.

Senator GORTON. The annex of the treaty details arrangements for the allocation of chinook for rebuilding process through 1998.

How will chinook salmon be allocated among U.S. fishermen and between the United States and Canada after the rebuilding is completed in 1998?

Mr. KRONMILLER. Mr. Chairman, the treaty provides that domestic allocations will be made following rebuilding to achieve a fair result on a coastwide basis. The process by which that will be accomplished is one that involves, first, the advice of the northern and southern panels of the Commission. The U.S. interests will have their input into the U.S. sections of the two panels. The Commission then will take up the matter, and the U.S. section on the Commission will, by consensus of the voting members, decide how we will allocate these fish between the United States and Canada.

I think that at this point I ought to defer for a moment to Mary Walker from the Department of Interior who worked on the settlement of the all-citizens lawsuit, which affects the question of how the rebuilt stocks will be allocated.

Ms. WALKER. The stipulation that was entered into between the States, the Federal Government and the 24 Indian tribes provides for a north-south allocation, or Alaska and then the southern States allocation to be made which, after the rebuilding period, after 1998, would be made by the voting members of the U.S. sec-

tion, and it would be made by a unanimous decision. That would be based on certain listed factors agreed to in the stipulation or settlement agreement.

I could read those if you want to, but there is——

Senator GORTON. Why do you not submit those for the record?

Ms. WALKER. OK. If I could, subsequent to this hearing, I can get you a copy of the filed stipulation.

Senator GORTON. Fine. That will be included in the record.¹

Ms. WALKER. OK, fine.

Ms. WALKER. There is a dispute mechanism then also provided if they cannot reach agreement.

Senator GORTON. In the event of overfishing of commingled stocks in the north, will there be any negative effects on southern allocations under the equity principle?

Mr. KRONMILLER. Mr. Chairman, it will be incumbent upon the United States to determine how it will address any equity imbalance in favor of the United States, should there be one. If indeed we find that there is an equity imbalance favoring the United States, we will provide a proposal to the Commission as to how to address it. That proposal will be based again upon a consensus decision of the U.S. section of the Commission.

Senator GORTON. Is that the decisionmaking process which was just described?

Mr. KRONMILLER. It would be very similar to this process. It would not involve a full range of factors necessarily that have been described here, but it would certainly be a consensus process so that no affected interest would be in a position of being overruled concerning whatever resolution would be proposed to the Canadians to deal with the equity problem.

Senator GORTON. There has been some concern expressed about including steelhead in the treaty and in the implementing legislation.

Could you explain why and how that language was adopted and what it means?

Mr. KRONMILLER. Senator, that language has been in the treaty text for some considerable period of time. The behavior of steelhead is similar to the behavior of the salmon that are subject of this treaty. Let me say that it was not the intention of the parties by simply referencing steelhead, and that is what appears in the treaty text, to affect in any way the rights of fishermen to take the steelhead, such rights that existed prior to the treaty. The intent was simply to address steelhead should it be decided that there was some need to do so in the future, again, the point being this is not intended to increase or diminish the previously existing rights of fishermen to harvest steelhead stocks, does not tie the hands of the Government in any way in addressing the steelhead issue.

Senator GORTON. I just want to make one of your statements clear.

There is nothing in the treaty or the act that is to be construed to either enlarge or diminish the rights of non-Indian fishermen to harvest steelhead trout which existed prior to the treaty?

¹ The material referred to has been retained in the Committee files.

Mr. KRONMILLER. Exactly.

Senator GORTON. Can the Commission regulate or make allocation decisions with respect to steelhead in State rivers?

Mr. KRONMILLER. I would think that that would be highly improbable that that would occur. If it were to occur, it would be again because there was a consensus decision of the U.S. section of the Commission that there was an interest in doing this. Again, no affected interest involved could be overruled.

Senator GORTON. Finally, Mr. Derwinski, I understand that a letter from OMB has been sent to members of the House Merchant Marine and Fisheries Committee opposing this legislation in its present form.

In light of the statement in your written testimony stating that, and I quote:

It is clear to all involved in these negotiations that changes or amendments to any one of these documents will have an adverse chain reaction that will fatally damage the consensus underpinning the treaty.

I would like to have your comment on that OMB letter.

Mr. DERWINSKI. Frankly, Mr. Chairman, I believe the OMB letter was sent without the full understanding of everything that is involved. We are continuing our discussions with OMB. We had through this entire process excellent coordination between the departments directly involved, Commerce, Interior, State, Justice, BIA and so on. I was frankly personally surprised when the OMB letter surfaced, and I would hope that by Monday we would have the matter resolved satisfactorily.

Senator GORTON. And you will report to us on that solution?

Mr. DERWINSKI. Very definitely.

Senator Gorton: I agree with you that it is very important that we totally satisfy that point and that we do so promptly, if we are to move ahead and meet the mid-March date, which all of us have accepted.

Senator Stevens.

Senator STEVENS. Thank you.

Following up on that, Mr. Derwinski, I am in hopes that if that is not resolved, that you will schedule a meeting with the members of this committee and Mr. Stockman to resolve this before the matter comes up on the floor of the House. I am of the opinion that once the House passes the bill, it would be almost impossible for us to then accede to the administration's request to change the bill. I believe that any change has to be agreed upon before the House passes the bill, which I understand will be next week.

Mr. DERWINSKI. Senator Stevens, we hope the House will act Tuesday. I would like to resolve this by Monday. Obviously that would be necessary.

Senator STEVENS. I want to join in commending both of you and the people who have worked with you for this revision of the treaty.

I was just reminded as I came through Seattle in the early part of this week that the newspapers in Washington had more or less hung this Senator in effigy because I opposed the original version of this treaty. I hope that those newspapers and news media in the southern states of the Pacific Northwest will read this treaty and

realize it is much improved, and that we will have a little bit more understanding of the position that is taken by the State of Alaska on matters pertaining to the salmon.

Now, for instance, this salmon intermingles in the North Pacific, does it not, Mr. Kronmiller?

Mr. KRONMILLER. Yes, it does.

Senator STEVENS. So that the deprivations of the nations of Taiwan, Thailand and Japan where this last season they very heavily attacked the salmon that intermingled on the high seas, can have a very serious effect on the outcome of this treaty, can it not?

Mr. KRONMILLER. Yes, it can have a definite impact.

Senator STEVENS. And those of us who believe that we have already made substantial concessions to the principle of conservation in Alaska now see that we are going to have substantial reductions in the catch of the fisheries of southeastern Alaska in addition to those that have already been made.

Now, I join the chairman in my questions about the commitment of the administration to enhancement not only for the purpose of just sustaining these fish runs, but for the mitigation of the economic hardships of the people involved that are going to make the concessions to bring about this treaty. If there is not enhancement in the area of southeastern Alaska, we are going to be very hard pressed to find our people observing this treaty, frankly. It is down to the lowest level of harvest that I think we have ever seen, and the economic hardships in that area are going to be great.

So I am a little bit worried, Mr. Derwinski, about the administration having, as you say, a situation where the right hand does not exactly know what the left hand is doing. I would hope that the meeting with Mr. Stockman also involves a commitment to the enhancement that is involved in this bill.

My Governor has asked for \$25 million annually. I have not seen anyone put a figure on this yet.

Are you prepared to put a figure of what is the minimum required to comply with the enhancement provisions of this treaty?

Mr. DERWINSKI. I believe that in each of the affected States, Alaska, Washington, and Oregon, there are studies and reviews being undertaken—I think Mr. Wilkerson, for example, expects to have some figures by next week as to the enhancement anticipations in his State.

In addition—and let me go back to the basic point, though. We in negotiating with the various U.S. interests, recognized that there had to be an enhancement process. I see that as an international obligation of the United States, and I see it as a matter of priority by which we were able to obtain this consensus that brought about the treaty and the agreement on the legislation, and that is, since I was operating under direct instructions of the Secretary of State to once and for all resolve this dispute, it seems to me that that will be a priority consideration, and we will make that point directly and effectively to OMB.

Senator STEVENS. Well, Mr. Derwinski—and I do not want to shock my colleague here, but the assumption of the State of Alaska was that the administration supported enhancement. If the administration is going to shilly shally and not support enhancement, we will withdraw our support of this treaty. I want that understood

very plainly. We want a commitment to enhancement before this treaty is approved, and I do not think we can see it ratified without that commitment. That applies to the hatcheries in the State of Washington as well as the enhancement in southeastern Alaska. It involves, incidentally, Mr. Derwinski, a change in the Department of Interior to permit access to the barren streams of southeastern Alaska which has now been withdrawn and which the Department of Interior refuses the State access to.

Everybody has been assuming that enhancement meant a commitment on the part of the Department of Interior and the Federal Government to restore these fish runs, and now we have just witnessed in Alaska on two occasions in the last 6 months a denial of access to streams in the State of Alaska for enhancement purposes.

That must be changed or this treaty will not be workable. I hope that we can have that understanding, because the timing is critical. We want this approved before the President goes to Canada.

Mr. DERWINSKI. I appreciate your point. We will direct our attention to those matters immediately.

Senator STEVENS. In terms of the Commissioners that are named under this treaty, one of them would be appointed by the Federal Government.

Is it your understanding that that person would be selected from the Department of Interior or from the area of the Federal Government involved in fisheries?

Mr. DERWINSKI. Actually, we have no specific intent there. My thought would be that since this is, first of all, a Presidential designation, that the White House would logically work with the Senators of the affected States to see that the person selected would in fact meet with the approval of those directly concerned.

Now, early on the Commission will have a difficult assignment just pulling all the pieces together, and it is going to be much more of an administrative and technical responsibility than one merely requiring expertise in the area of fisheries. It may well be that the first year or two that Federal commissioner might well be a State Department official very familiar with the processes that led to this treaty and legislation.

I just mention that as a practical possibility. But we will make the point to the White House that the Senators of the affected States have a special interest, and I think what we will do is work out something agreeable to everyone.

Senator STEVENS. I do not think we have any a priori position as to who it should be or where he should be from. I think we ought to have an understanding, though, that it is a fisheries matter, and it is something that would be a matter the Federal Government would want to have an expert in the field involved in. And I know of some experts in the field who are in the State Department as well as the Department of Commerce.

But I would hope that the member of the committee would be someone, knowledgeable in the area and not just a political appointee who needs a job.

What is your position about the increased compensation for these Commissioners?

Mr. KRONMILLER. Senator, I am not sure that the administration has yet adverted to that particular issue, but let me say that

having worked with these exceedingly complex and demanding issues for the last couple of years, I think it is only sensible for those who will continue to work with these issues to be in a position where they feel they can dedicate the kind of efforts that will be required to address them properly. That is to say I think that these people must be properly compensated, and should be highly compensated because of the complexities of the issues and the impacts of their decisions upon thousands of fishermen and hundreds of communities throughout the Pacific Northwest and Alaska.

So my personal view is, and my recommendation to the administration would be, that these higher levels of compensation should be accepted without any difficulty as being entirely appropriate to the job that needs to be done.

Senator STEVENS. Is it sufficiently high to attract you to come to this Commission, Mr. Kronmiller?

Mr. KRONMILLER. Senator, I am flattered at the suggestion, but for many reasons I think that my work on the treaty is concluded.

Senator STEVENS. Again, I think we ought to make certain that everyone knows that the two of you and the people who worked with you have saved the treaty process, and really have brought to us a treaty which, if properly supported, will be workable. I think the worst thing we could do would be to go into this treaty and have it ratified and then find out there was no support for the basic assumptions that led the States and the interested parties to agree.

Again, I am belaboring it, but the most significant element in that was the enhancement concept. The whole reason for the treaty is to restore these fish runs, to restore the sufficiency of the fishery and not be constantly and forever perpetually in the position of allocating a shortage. These States and our neighbors in Canada can get along much better if there is a surplus, obviously, than if there is this terribly low position as far as the stocks are concerned.

I personally believe that a firm commitment to the enhancement process is absolutely necessary before we take this treaty to the floor, and I have not seen that firm commitment. I am not critical of you two. I think that your position in representing the United States in the treaty process was correct, but I have not seen the commitment forthcoming from Mr. Stockman yet. There is not very much money in terms of the moneys we are talking about now. It is just not much money at all, and the relative peace that it will bring, to be assured that the commitment is there is important to hatcheries in the south and the stream enhancement in the north.

And mind you, I think if it was forthcoming in the proper way right now, we could secure a commitment from the States involved to contribute to that process. That has also been missing so far. My State ought to make a commitment to support enhancement as well as the Federal Government and so should the States of Washington and Oregon. We should have money on the table here as well as the principle of conservation in terms of the support of the future of these fish runs.

So I hope you will get us that commitment.

Thank you very much, Mr. Chairman.

Senator GORTON. Thank you both.

Excuse me. Mr. Derwinski?

Mr. DERWINSKI. Just to say, Senator, I think you are most logical, and your comments frankly are going to be helpful to us.

I appreciate it very much.

Senator GORTON. Thank you both very much.

Mr. DERWINSKI. Thank you, Senator.

Senator GORTON. Our second panel will include Mr. William Wilkerson, the director of the Washington Department of Fisheries, and a representative of the State of Alaska, Mr. Norm Cohen.

As they come up here I want to add the compliments we made on behalf of the previous two witnesses to Mr. Wilkerson. His efforts over an extended period of time representing what can mildly be described as diverse constituencies has been not only successful, but very skillful and thoughtful as well.

I do not know Mr. Cohen as well. Perhaps, Ted, you would like to say a few things about his contribution to this process.

Senator STEVENS. Well, Mr. Cohen represents our Department of Fisheries, but I do not think he was the active participant as much as the Commissioner of our Department of Fish and Game was. I would add that all of those involved in the State's position, in formulating the State's position have worked very closely with us and we are delighted to have this position that is going to be represented this morning by Mr. Cohen.

Senator GORTON. Mr. Wilkerson, as was the case——

Senator STEVENS. Pardon me. I do not mean to underestimate the role that Mr. Cohen has played, but Mr. Collingsworth I think was our representative in this matter.

Senator GORTON. Mr. Wilkerson and Mr. Cohen, your written statements will be included in the record as if read in full.

We will be happy to have them summarized at this point, beginning with Mr. Wilkerson,

STATEMENT OF WILLIAM WILKERSON, DIRECTOR, STATE OF WASHINGTON DEPARTMENT OF FISHERIES; AND NORM COHEN, REPRESENTATIVE OF THE STATE OF ALASKA

Mr. WILKERSON. Thank you very much, Mr. Chairman, and I would echo Senator Stevens' remarks, Don Collingsworth was the head of the northern delegation and had a remarkably difficult job, much like we in the south.

I am here and very proud to be here to testify on behalf of S. 516. I think that it is important to note that the State of Washington has never had an easy time with the United States-Canada treaty. We have had diverse views within the State. It is also important to note that this treaty and this effort in this treaty was strongly supported by Governor Spellman up until January, and by Governor-elect Booth Gardner, even to the point where Governor Gardner testified in behalf of the treaty before the House committee last Monday. I think that underlies the importance of this treaty to the State of Washington.

Jack Donaldson from the State of Oregon is not here. His Governor has submitted a statement to the committee. He is in the middle of ways and means negotiations in his State. Otherwise I

know he would be here, and he was with us all the way, as well as Don Collingsworth.

I am going to summarize my remarks, Mr. Chairman, but briefly, I wanted to point out a couple of things.

We have made available to the committee a document which summarizes in detail the United States-Canada treaty, what its importance is, its impacts on stocks, and I am not going to get into too much detail about that, but I thought I would point out the first page of that treaty because I think it shows the remarkable job that Ted Kronmiller and a lot of other people helped put together. The first page shows the people who are behind the treaty from the south, and nobody knows better than the chairman the remarkable task it was to bring together commercial and recreational fishing interests, treaty Indian tribes, States in the lower 48 in a consensus mode.

I think, as proud as I am of the treaty text, of the legislation, and of the stipulation and order that were the three items that had to be negotiated if there was to be a treaty, I am as proud of that first page as of any of the documents because it does say that people can pull together under the very worst of circumstances, with probably the worst of histories, and make some decisions, very difficult decisions, that lead to something that is good for the future of a resource. And that is really what United States-Canada is about; it is the future of our salmon in the State of Washington.

The sign of cooperative management approaches to me is a positive one, and it leads to some of the questions I think that you have asked about the future of enhancement of this resource. Without United States-Canada to the south, and I think to the north, very candidly, Senator Stevens, without assurances that we could get some of those fish back to either Alaska or to Washington and Oregon waters, there was not an awful lot of point in significantly increasing the enhancement.

Senator Stevens mentioned State commitments to enhancement. In 1977 we had a program of \$33 million in the State of Washington to enhance our waters largely in response to the Federal court decisions. We held up spending some \$7½ million because we could not develop projects that made sense and would get chinook and coho back into the State of Washington. We can now free up that \$7½ million, and that is a State contribution that reasonably could have been made 3 or 4 years ago, and we would have those fish in our fisheries right now. Without United States-Canada, it did not make sense. With United States-Canada, it does.

I too hope the Federal commitment to enhancement is a strong one and a firm one because the understandings of our fishermen were very clear in Alaska and in certain parts of the Northwest that we were going to do everything we could to mitigate for any losses that were subtracted from various fisheries through the restrictions that occurred under the treaty.

And believe me, we are going to have restricted fisheries. We have to because the status of our resource is not all that good, particularly with respect to Chinook stocks, and even in certain instances some of our hatchery coho and Chinook stocks have been imperiled through the incredible interceptions in recent years.

I would like to just point out the reason this has become so important to Washington through two statistics. Last year off the coast of Washington we harvested about 75,000 Chinook salmon. We had 3 day commercial seasons and 12 day recreational seasons off the coast. To the north they harvested about 1.5 to 1.7 million, of which only 275,000 or 280,000 took place off the coast of Alaska.

For coho, we caught 100,000 coho, which is about 10 percent what we have averaged in recent years off the coast of Washington. We had the El Nino environmental condition which substantially affected those stocks. Just to the north, off the west coast of Vancouver Island, which was facing the same environmental conditions, they harvested 2.3 million Chinook.

We are talking here of ratios of 20 to 25 to one in terms of north-south allocations on these important stocks, and most of those coho stocks, by the way, off the west coast of Vancouver Island, originated in the waters of the State of Washington.

Jim Harp and others will be testifying about the fact that they caught 300 coho last year in the Queets River, maybe 500 or 700 in the Quileute River. You can imagine what kind of stress those kinds of fisheries have put in terms of the allocation games that we have had in the south, and it has led to some incredibly—in fact, having presided the last 2 years over all of those fisheries, just probably the most incredibly difficult economic situations that I could have ever imagined.

Suffice it to say, United States-Canada gives all of these fishermen, the ocean charter and troll fishermen, the Indian in-river fishermen, some hope. And it gives us the opportunity again to enhance those stocks, particularly on the north coast and in the Columbia River.

Enhancement has a future in Washington not only through the State program but through the Columbia River enhancement through the Northwest Power Act. The rate payers of the State of Washington and Oregon and Idaho and Montana are committed to rebuilding the fish runs through that Northwest Power Act which you enacted in 1980. The fish and wildlife program was on a slow track because we had no assurance we could get those fish back to the Columbia.

Now, upriver tribal fishermen, upriver sport fishermen and lower river and ocean fishermen have a hope that the Columbia River stocks can actually be rebuilt. And they will be rebuilt. We have the dollar commitment there, and we have the wherewithal, the technical ability to rebuild the once mighty runs of the Columbia River.

I am not suggesting to you we will get back to where we were in the 1890's, but we will get back to very good historical run sizes on Chinook and coho stocks in the Columbia. Again, the investment, the wherewithal is there, and now we have the assurances of getting those fish back.

One of the very sensitive issues in these negotiations involved the relationship of the Alaska obligations under the United States-Canada treaty and the obligations of the United States, the States of Washington and Oregon and Alaska under Indian treaties, and perhaps frankly, the most difficult aspect of the negotiation was within the U.S. delegation in seeking to arrive at a balance where

Alaska did not have to fear a cutback as a result of United States-Canada and then future cutbacks as a result of some sort of litigation connection vis-a-vis the *U.S. v. Washington* case, the so-called all-citizens connection.

Believe me, the interests again in that case were very, very strongly felt interests because the tribes believed, that the obligations of the treaty are the obligations of all U.S. citizens.

We have we set up a system which provides for fair allocations between the citizens of the United States and the treaty tribes. United States-Canada returned substantial numbers of fish to both Indian and non-Indian fishermen in the States of Washington and Oregon, and it provides again substantial hope for rebuilding of those stocks, particularly targeting on particular tribal needs and again the needs of certain of our most depressed fisheries.

I would say that the compromise that has been drafted here is not a perfect one, but it was one that showed remarkable movement on both the State of Alaska's part and the tribes' part, and I can only compliment both the tribes and Alaska for facing each other on this issue. I think that the Senator knows how difficult that has been in terms of the reality of both Washington and Oregon's history, and I think that we have come up with an approach, while not perfect, which ensures that there will be fair north-south allocations for a long time to come.

That is of benefit to the State of Washington as well. We are not required to seek fair allocations as, for example, Idaho had to do on the Columbia River by attempting to sue Washington and Oregon through original jurisdiction cases and the like. We now have a system set up to resolve our problems amicably among the three States and the tribal interests, through both the stipulation and order that Mary Walker was describing, and through the treaty itself.

I have had a lot of exciting opportunities as fisheries director. This was far and away the most exciting, and also, frankly, the most difficult task I think that we have had.

I would only say to this committee that the package before you, as Counselor Derwinski indicated, was about the most carefully crafted package I have ever been involved with. I would hope that the Senate can deal with this on an expedited basis. I would hope for the sake of 1985 seasons, not just meeting the President's schedule, but for the sake of the 1985 season management, that we complete this fast track approach.

I compliment the six Senators from the Northwest. Very honestly, you put the pressure on all of us to reach a fair agreement. And I think I agree with you, Senator Stevens. We have a better treaty today for both Canada and the lower 48 based on a lot of improved understandings over the last 3 years of negotiation than we did in 1982. We thank you for your efforts. And again, I am thrilled to be here to be able to say that we have a treaty for you at long last, and we hope that you can now expedite its enactment so that we have the ball rolling in 1985.

Thank you very much.

[The statement follows:]

STATEMENT OF WILLIAM R. WILKERSON, DIRECTOR, WASHINGTON DEPARTMENT OF FISHERIES

Mr. Chairman and Members of the Committee: My name is Bill Wilkerson and I am the Director of the Washington Department of Fisheries. It is a great privilege for me to appear before the Committee to testify on the U.S./Canada Salmon Treaty.

INTRODUCTION

As you know, a Pacific salmon treaty has been the subject of extensive negotiation by the U.S. State Department for almost 20 years. It has been most challenging to be a part of the delegation that at long last brings to you a treaty and implementation legislation that puts the negotiating process at an end, and sets a regime of cooperative fish management between our two great nations as the agenda for tomorrow.

Many have asked me over the five years of my own involvement in the negotiations—"What is the problem, why can't you get a tricky if it is so important to the future of our resources?"

All of you are aware that the problem with salmon is that they are a migratory species that know no boundaries. Fish born in our rivers pass through Canadian and Alaskan waters before returning to the waters of our state. Canadian fish migrate into Washington and/or Alaskan waters. We catch their fish. They catch ours. Important segments of our highly competitive industry rely on the harvest of both nations' fish.

Simply stated, this treaty is intended to resolve the problems of conservation and interception resulting from the fact of salmon migration and the intense competition of fisheries to harvest those salmon. The issues addressed in the treaty are so complex, I can honestly say that their political resolution may well have been legitimately required the 20 years of negotiation. There was no easy settlement available.

We, in Washington, have the greatest appreciation and respect for Counselor Ed Derwinski and Chief Ted Kronmiller. It was their leadership and creativity which helped all of us put together the negotiated arrangements before you. These men used their special talents to cajole, persuade and encourage all of us to give as well as take during these past months.

U.S./CANADA—A SIGN OF COOPERATIVE MANAGEMENT

I have attached,¹ as part of my testimony, a briefing packet which describes in some detail the importance of the treaty, how it will work, its potential impact on our fisheries, and a summary of the implementing legislation. For now, I direct your attention to the first page of that packet.

You will see that the treaty is the product of the hard work of the broadest coalition of fishing interests ever put together in Washington and Oregon to solve a fisheries problem. The first page is proof that diverse interests can come together to solve difficult problems in spite of long and conflicting histories and disputes among those parties.

Treaty tribes, the state fisheries agencies, many of our fishing groups, environmental groups and federal fisheries agencies all committed their energy, money and talent to getting this treaty. It would not have happened without the spirit and fact of cooperation. Perhaps at long last, the war over salmon in the Northwest—which was becoming a battle to see who might catch the last fish—is behind us.

U.S./CANADA—A FUTURE FOR THE FISH

The proposed treaty addresses all salmon in the Northwest (the existing treaty between the two nations provides for cooperative management only of Fraser River sockeye and pink salmon). A first important principle of the treaty is to ensure the coastwide conservation of the stocks, a principle which has often taken a back seat to Canadian and U.S. efforts to harvest as many of the other nation's fish as possible.

This conservation regime is particularly important with respect to chinook salmon. The almighty king salmon will at last be the subject of a coastwide rebuilding program. In recent years, without the treaty, our two nations have overharvested as many as a half million chinooks per year. This uncontrolled harvest put the

¹ The attachments were not reproducible and are in the Committee files.

stocks in biological and economic jeopardy. The trend must be reversed and the treaty ensures that it will.

Chinook fisheries in Canada and Alaska will be reduced by 25 percent in 1985 and 1986. This will reverse the trend of decline in the stocks. After 1986, fisheries will be limited to ensure the rebuilding of depressed natural stocks by 1998. This may be accomplished by further harvest restrictions or, hopefully, through enhancement strategies which allow stable fisheries while reducing the harvest rates on critical natural stocks.

While coho, chum, sockeye and pink stocks are generally healthier than chinook, the treaty establishes a contract between the two countries which ensures that each nation will help the other conserve its stocks. Such a commitment has clearly been lacking in the in the past (except for the sockeye and pink treaty).

U.S./CANADA—A FUTURE FOR ALL OUR FISHERMEN

The strong support and only limited dissension among our fishing groups regarding the treaty reflects two facts: (1) the overwhelming problems associated with the status quo, and (2) the clear acknowledgment in the treaty and its annexes that it shall be a priority of the two nations to maintain and enhance existing fisheries.

Let me describe the status quo for Washington fishermen. Our Fraser River fishermen have seen their percentage shares of sockeye and pink salmon decrease from nearly half the harvest in the 1940's and 1950's to slightly more than one-fourth of the total harvest in the last ten years. Because the Canadians could mount extensive fisheries outside areas covered by the original treaty with Canada, there was no end in sight to this continued decline. And Canada had expressed its intention to further reduce U.S. harvest of Fraser stocks, with or without a treaty.

The proposed treaty guarantees our Fraser fishermen a significant fishery, and is a reflection that Canada has taken a more realistic view of the future of this fishery. For the next eight years, U.S. fishermen will actually increase their pink salmon harvest from the 1975-83 average of 2.48 million fish to 3.6 million fish—an increase of 45 percent. Fraser River sockeye harvested by U.S. fishermen is projected to average 1.75 million fish, or 21 percent more than the 1975-84 average. Canada will be able to enhance its Fraser River stocks with assurance that the fish will be available for harvest by Canadian fishermen.

Chinook and coho fishermen in Washington and Oregon benefit more from the treaty. The status quo for our ocean troll and recreational fisheries tells us why southern U.S. interests so badly needed a treaty which deals with all species of salmon.

In 1984, Canada harvested 2.3 million coho off the West Coast of Vancouver Island, Off the coast of Washington. Treaty and non-treaty ocean fishermen harvested less than 100,000 fish, a ratio of 23:1. This at a time when El Nino impacts created a conservation crisis. Under the treaty, a substantial reallocation to the south in 1985 and 1986 begins and, with conservation principles in place, such distorted fisheries patterns are not possible in the future. This reallocation means a future for ocean and in-river coho fisheries in Washington and Oregon.

In 1984, chinook harvest north of the Canadian border (including Alaska) exceeded 1.5 million fish. Off the coast of Washington, chinook harvest was less than 75,000—a ratio in excess of 20:1. The chinook rebuilding schedule will affect a substantial reallocation to the south over the next 14 years because of the comparative good health of our stocks to those in Canada and Alaska. The attached packet indicates increased returns to Washington and Oregon, as key indicator stocks range from 10-200 percent over the rebuilding period. This does not account for the benefits of significant new enhancement which is possible with ceilings on fisheries to the north.

U.S./CANADA—AN OPPORTUNITY TO SIGNIFICANTLY ENHANCE OUR STOCKS

Like Canada on the Fraser River, the United States can now make significant investments in salmon with assurance that such investments will benefit our own fishermen. The principle of equity established in the treaty provides that each nation receive the benefits equivalent to its own production. The adoption of management by ceilings or quotas in the treaty annexes is clear evidence that both nations intend to live by this provision.

What this means in Washington and Oregon is that existing production in federal, state, and tribal hatcheries will provide significantly greater benefits to our fishermen. It means that investments by power customers under the Northwest Power Act in rebuilding Columbia River fish runs can be accelerated. It means that cur-

rently frozen state monies for enhancement can be freed to increase runs important to treaty to treaty and non-treaty fishermen.

Alaska, Washington, Oregon, and the tribes will be before the Congress asking you to maintain existing federal production, and in some instances to join us in the expansion of production. Many marginal existing facilities and proposed new hatchery operations are now excellent investments with an interception treaty in place.

U.S./CANADA—A COMPLEX COOPERATIVE MANAGEMENT PROGRAM

The treaty and implementing legislation establishes a necessarily complex international management structure to ensure that the treaty provisions are implemented. The two countries have proven that international salmon management institutions will work, given the success of the International Pacific Salmon Fisheries Commission. That Commission rebuilt Fraser River sockeye and pink salmon stocks and effectively managed fisheries in Convention waters pursuant to the terms of the treaty. It succeeded because it was given the resources and institutional arrangements necessary to force intelligent annual agreements between the two countries.

Because we borrowed from the model of the previous treaty, we believe that the institutional arrangements under the proposed treaty are workable, although the new commission has a much more complex job. It was our intent in the development of the commission system to ensure the adequate protection of Alaska, southern state and tribal interests, with appropriate federal involvement and oversight to protect federal investments and to ensure the meeting of international obligations. The primary management functions are, in large part, left with the states and tribes, provided that their actions are consistent with the obligations of the treaty.

Obviously, the commission and state and tribal management entities will fail to meet our international obligations if we are not provided the resources to do our job. There will be a cost. The operational functions of the commission must be funded, and we have proposed an amendment package which assures this.

Certain data and research requirements have resulted from the treaty. If either the U.S. or Canada is to comply with the conservation and equity provisions of the treaty, we must be able to identify who is catching the fish and where. This will require a variety of expanded tagging, sampling, recovery and analytical programs. We will be jointly submitting appropriate budgets for such programs with the tribes and other affected states. Cooperative programs with Canada will also be required.

U.S./CANADA-RELATIONSHIP TO INDIAN TREATIES

As you know, the negotiations with respect to this treaty required a focus on treaties which the U.S. previously entered into with Northwest treaty tribes. A lawsuit had been filed which raised questions as to the State of Alaska's obligations under those treaties. It was clear to all of us that there was a relationship between certain aspects of this suit and the U.S./Canada treaty. Alaska expressed clear concern that it could not face reductions in its fisheries through both a lawsuit and an international treaty. The tribes, on the other hand, sought recognition that the obligations under their treaties apply to all U.S. citizens.

Perhaps the most difficult element of our negotiations involved resolution of the north/south allocation issues between Alaska, the southern states and tribes, and appropriate federal agencies. A part of the treaty package is an agreed-on court order among the parties which will go into effect if the treaty is ratified and the implementing legislation is enacted without significant amendment.

I raise this issue not to address the substance of the proposed order, but rather to underscore the difficulty, the give and take, and the complex risks assumed by all of us in these negotiations. An agreement has been struck on this three-part package. It is not a perfect product for any of us. Frankly, state and tribal leaders are being criticized for resolving or not resolving certain provisions in the treaty, the legislation, or the court order in a certain way. We all needed the treaty for varying reasons; we needed as well to resolve many issues in the lawsuit.

The lawsuit is not fully resolved by the proposed stipulation and order. Issues to the south remain. What is satisfying is the commitment of the states, the tribes, and the federal government to resolve these remaining issues in the spirit of cooperation that resulted during the treaty negotiations, with each of us considering each other's needs in the resolution of the problems on which the litigation focuses. It is also recognized by all of us that the treaty with Canada provides us far greater flexibility in resolving the difficult remaining issues.

CONCLUSION

The treaty, legislation and court orders which have been crafted in recent months are the product of one of the most intense efforts to resolve domestic and international problems for the salmon ever mounted. I truly believe U.S./Canada is the most important fisheries and environmental issue in the Northwest at this time. It is a pleasure to offer you a good treaty for both nations, a good implementing bill for all interests in the United States, and a court order which is an excellent start at resolving many of our domestic allocation problems. We ask that you give this package your fullest consideration and support.

Senator GORTON. Thank you, Mr. Wilkerson.

Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman, Senator Stevens. My name is Norman Cohen, and I am representing Governor Sheffield today before the committee. It is my pleasure to present this testimony. The State of Alaska is very pleased to be able to be in support of the treaty as well as the implementing legislation, S. 516.

Rather than going into general comments, I would just like to make a few detailed comments about the legislation that is before you today. There are some places where the language could be misinterpreted, and I think it is important to have those places made clear.

The first one deals with section 4 which gives States the authority to make regulations that follow the recommendations of the Commission. The way that the implementing legislation is set out is that it is up to the States to implement the recommendations of the Commission, and it is only in rare instances that the Federal Government, through any of its regulatory bodies, would take over some type of regulatory authority. The intent of the treaty was to keep as much as possible the States' regulatory authority as well as the tribal authority.

One of the confusing parts of the treaty, or what appears to be confusing, was brought out in Mr. Stockman's letter. He says in paragraph 3 that all regulations are exempt from the provisions of the Paperwork Reduction Act. That is one thing that I would like to make clear today. It is not all regulations that are exempt, it is only regulations which are made pursuant to preemption authority by the Federal Government, the Secretary of Commerce, or amendatory regulations to conform the rules in the EEZ to the rules in the State waters.

Now, the reason why that is important is because there are some special rules for those types of regulations. It is a very expedited procedure, rather than the more careful procedure under normal Administrative Procedure Act rules that apply to all other regulations adopted by the Federal Government. And so I would just like to clarify that the letter from Mr. Stockman assumes that all regulations are handled under section 7(a) of the treaty, all Federal regulations, but that just is not the case. Most of the regulations by the Federal Government would be under section 7(b) and not be expedited.

In the situation of a preemption, there is provision for judicial review. In judicial review, there is no provision, however, for a preliminary injunction. The Federal Government felt it was very important that regulations during any challenge remain in effect until they were finally heard on the merits. However, a provision

was included in the legislation to provide that a challenge would be heard on the merits at the earliest possible time and expedited in every way by the courts so that a challenge would not be rendered moot by the passage of time but would be heard in a way that relief could be granted.

The States felt that it was very important to make sure that judicial review was to be received in an expeditious period of time.

One other point deals with regulations that are passed by the States or the tribes. Any judicial review of those regulations or any prosecutions under those regulations would go to State court and would not be subject to the jurisdiction of the Federal district courts.

A lot has been said today about the topic of enhancement. Section 12(c) provides that enhancement, authorizations for appropriations for enhancement, and as Senator Stevens pointed out earlier, is a very important part of the State support for the treaty and the treaty process. The State of Alaska's fisheries, especially the chinook fishery in Southeast, had to undergo severe cutbacks in order to attain a treaty, and the understandings during the discussions in the negotiations was that there would be funding for enhancement in order to compensate or to mitigate for those cutbacks. We believe that there is a national obligation to provide for these enhancement projects to mitigate, and we believe that it is very important that it take place. Otherwise we are really jeopardizing the economic viability of those fisheries.

In closing, I would like to again thank the participants in the negotiations, the States of Washington and Oregon, the treaty Indian tribes who participated, and especially Mr. Kronmiller, Mr. Derwinski, and especially in the case of the implementing legislation, Mr. Colson of the State Department who in 3 days put together this piece of legislation with all the different interest groups, it was really a masterful job.

Again, the State of Alaska is in support of the treaty and the legislation, and I thank you for this opportunity to testify.

[The statement follows:]

STATEMENT OF HON. BILL SHEFFIELD, GOVERNOR, STATE OF ALASKA

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to present to the Committee testimony on S. 516, a bill to implement the U.S./Canada Pacific Salmon Treaty. This legislation is one of the very important parts of the treaty package which is now before the Congress. As I stated in my testimony before the Senate Foreign Relations Committee last week on treaty ratification, the State of Alaska finds the treaty acceptable and supports its ratification as well as the passage of S. 516.

The bill before you today was developed through discussions among the affected states, treaty Indian tribes and the commercial and recreational user groups. This bill is a consensus document which has our full support. There are several portions of the bill that I would like to touch on as they will affect how the state of Alaska implements the recommendations that are made by the Pacific Salmon Commission.

First, in section four provision is made for the states and the treaty Indian tribes to implement Commission recommendations through their general fishery management authorities. In section seven there is authority for the federal government to adopt regulations which do not conflict with the recommendations of the commission. Though the language in these sections is general, there is clear intent by the parties to the negotiations that state and tribal regulations (and regulations adopted pursuant to actions by the Pacific and North Pacific Fishery Management Councils) are to be the means of carrying out the fishery regimes recommended by the Commission.

Second, the preemption provision, found in section six, provides an expedited method for the federal government to regulate a fishery when the states or tribal authorities are not fulfilling the United States' international obligations. The language in this section was carefully crafted in order to make certain that the federal government provide adequate opportunities to state or tribal regulatory body in order that they may address the perceived problems prior to preempting a state or tribal fishery regulation. In addition, these preemption actions are subject to judicial review and such reviews are entitled to precedence over other matters pending on the judicial docket. This provision on judicial review meets the federal government's interest in having regulations stay in effect during the pendency of a legal challenge, and also meets the interests of the states in requiring that such matters shall be heard on the merits in a timely manner. Otherwise, relief would not normally be available as the issue in contention would likely be rendered moot by the passage of time.

Third, section ten provides for an advisory committee. This provision was added at our request because of the need to include as many interested parties as possible in the decision-making process. We have found in Alaska that unless the public is given an adequate opportunity to be heard and to participate public support is often lacking.

Fourth, section eleven provides for authorizations for funding. Paragraph (c) provides the authorization for funding enhancement recommended by the Commission and for enhancement needed to mitigate for the reductions in harvest required by the treaty. This is a most important component of the legislation and the treaty process itself. As I stated earlier in these remarks, the State of Alaska supports the entire treaty package and not simply its separate components. One of those components is funding for enhancement projects which are needed to respond to cutbacks which were required in our chinook troll fishery under the terms of the treaty. Reductions in this fishery as well as reductions in our transboundary river and boundary area fisheries resulting from implementation of the agreed upon fishery regimes will require mitigation through enhancement in order to keep our fisheries economically viable. It is our view that the responsibility to fund these projects belongs with the federal government. This was the understanding of the parties and an integral part of the negotiations. Though this committee is not in a position to appropriate funds for these purposes, we will be closely following the Congressional appropriations process as the proposals for enhancement funding proceed. I request this committee's support for these projects.

In closing, this piece of legislation contains the provisions sought by the State of Alaska to provide an expeditious method for implementing the Commission's recommendations without undue disruptions to existing state management authorities. I feel that the bill as written, except for the minor fiscal amendments, accomplishes this and I support the bill. Please enter this testimony into the hearing record.

Senator GORTON. Thank you both very much.

Mr. Wilkerson, how are you going to proceed in respect to the negotiation of the unresolved issues in the all-citizens suit?

Mr. WILKERSON. Mr. Chairman, there are a number of issues pertaining particularly to southern migrating stocks and a few remaining issues on the northern migrating stocks that are the subject currently of very strenuous negotiation.

As you recall in the Columbia River, for example, we used to have a so-called 5-year plan. What we have done is under the *All-Citizens* case, we have merged the renegotiation of that plan. We are into the dealings under all-citizens. We are also negotiating a plan for the north coast. Those are the two most sensitive and difficult areas to respond to, particularly the southern migrating stock issue. The Columbia River obviously was affected substantially by United States-Canada. But we are in intense negotiations there and under a court-ordered schedule that would insist that the negotiations be complete by November of this year.

We are incorporating into those planning processes not only the traditional allocation debate, but production, natural stock enhancement, in the *Columbia River* case the Power Council plan-

ning process, and so forth, so that instead of being limited to the debate of how you divide just a few—the existing fishery, we are looking to the future, how are we going to create divisions over the longer term.

In Puget Sound the issues are less all-citizens related. The primary issue there was United States-Canada, but we do have a few minor issues that I think will easily be resolved with respect to the Puget Sound tribes under the suit. But there is a clear commitment of negotiation by both the State and the tribes to those issues.

Senator GORTON. Are all user groups and affected agencies involved in these negotiations?

Mr. WILKERSON. As you know, negotiations under the *United States v. Washington*, *United States v. Oregon* format are restricted to the parties, so what I have is the responsibility and the Attorney General's office of the State of Washington has a responsibility to do the direct negotiating, as is true of Jack Donaldson and others in Oregon. But we have set up kind of an advisory committee process so that the user groups are informing us as to some of their basic goals and objectives in each of the regions. For example, trollers and charter-boat fishermen are advising us as to what their needs are, their objectives are. We are telling them if those are realistically achievable or not, and then we go meet with the tribes.

But it is a complicated system because it is set up under the party jurisdiction of the court process.

Senator GORTON. Is everyone committed to a reasonably flexible approach in resolving these issues? Are Indian tribes, for example, unwavering on the issue of a 50-50 split, river by river, and run by run on all stocks?

Mr. WILKERSON. No. In fact, section 6C of the stipulation and order specifically indicates that the parties are flexible, all parties, including the States of Washington and Oregon, and the parties are committed to a fair package, a balanced approach which meets the needs of all fishermen.

I am very much—I have just been amazed at the ability of both sides to start focusing on creative solutions as opposed to focusing on kind of tightfisted legal rules at this time.

Now, obviously we have to focus on and pay attention to the court requirements, but I think we are seeing flexibility, particularly again on the north coast and the Columbia River, that is not only gratifying but important in shaping management regimes that can provide significant benefits to both fisheries.

Senator GORTON. Does the treaty provide a sufficient degree of flexibility to the parties in order to resolve these difficult allocation issues which affect the States of Washington and Oregon and the tribes?

Mr. WILKERSON. Well, I think the treaty provides us so much greater flexibility, it is almost unbelievable, because it gives us some fish to allocate. You know, we just simply have been virtually fighting each other over a few fish—and I will use the north coast example. Jim Harp and I last year negotiated an arrangement where we were harvesting only 300 to 400 fish in the Queetz River and 300 to 400 Queetz River origin stocks in the ocean fishery. Now, that is not much in the way of a resource to be "dividing."

And now under the negotiations we are looking at substantial additional returns from Canada first, and second, the opportunity to enhance those stocks.

So I would say United States-Canada gives us a hope that we will be allocating significantly greater numbers of fish.

It is a lot easier for both sides when they have fish to promise their two sides.

Senator GORTON. Is the State of Washington prepared to take full responsibility for the settlement of the unresolved issues in the *All-Citizens* lawsuit?

Mr. WILKERSON. We and the tribes, I think, and the Federal Government, to the extent that they are the trustee for the tribes, are absolutely committed to the effective negotiation of this result, and I think we are responsible for accomplishing that goal.

Senator GORTON. Would you give me your views of the inclusion of steelhead in the treaty and your views as to whether the Commission can regulate or make allocation decisions over steelhead in State rivers?

Mr. WILKERSON. Yes. Well, first of all, Mr. Kronmiller indicated the steelhead language has been in the base treaty for a number of years. It was put in there I think in 1978 at Linwood at the request of the sport fishermen, and the reason for it was this is an interception treaty. There was fear of a high seas gill net fishery in the Canadian waters, some such fishery being invoked and intercepting steelhead. That would present a problem. You did not want to have to go back and put together a new steelhead treaty if that was the case.

You asked a question of Mr. Kronmiller earlier about whether the Commission will regulate in State waters. Norm's remarks I think are very apropos to that. The treaty does not contemplate the taking over of regulations, and I think the States would very much be opposed to that.

For United States-Canada to be invoked in the rivers of the State of Washington vis-a-vis steelhead, one would have to find substantial numbers of Canadian stocks being intercepted in those rivers, and I know of no data or information that shows that Canadian steelheads are being caught in any river in the State of Washington.

The only possibility again that I am aware of is some sort of a major mix stock fishery regime intercepting steelhead. So I have been surprised at the arguments that a definition section which includes, says "and steelhead," or "and *salmo gairdneri*" or whatever it is, could somehow be interpreted to provide a domestic allocation decision.

And one other point, not just with respect to steelhead but salmon, Canada and the United States made it very clear to each other that it is none of the other guy's business who catches the fish in each other's country. It only becomes our business if they are catching too many of our fish, or vice versa, and then it does not matter to me whether it is a sportsman or a commercial fisherman that is catching our fish, it matters that they control whatever fishery it is to prevent that, and the opposite is true as well.

So domestic allocations are not a factor in this treaty.

Senator GORTON. Mr. Cohen, I have just one question for you, if I may.

In the event of overfishing of commingled stocks in northern areas, what ramifications do you think might result to southern allocations?

Mr. COHEN. Mr. Chairman, the fishing in Alaska is going to be subject to the controls placed upon the Alaskan fishery first by the Commission and then implemented by the State regulations. If the State is not following the Commission's recommendations, the State is subject to preemption. So it would be a very unlikely situation where there would be intentional overfishing of any stocks that may be subject to south migration and subject to the harvest in Washington and Oregon.

The only fishery that is completely coastwide and affects Alaska is the Chinook fishery, and in circumstances where the rebuilding program which is set up is not being met, then adjustments to that rebuilding program will have to be made, and that is provided for in the annex on Chinook.

So certainly unforeseen circumstances could result in some type of overfishing, but those are to be taken care of subsequently when the issue becomes known to the parties.

Senator GORTON. Thank you very much.

Senator Stevens?

Senator STEVENS. Mr. Cohen, let me first address our neighbor from the south.

Mr. Wilkerson, I thank you for your generous comments. I do not know if you know it, I have been involved in this fishery now for over 30 years. I was with the Eisenhower administration serving as Solicitor of the Interior Department when these fights began, and that first draft of the treaty in my opinion just could not work. So I am delighted to see that you all have really come back with a treaty that will work in my judgment. It will be fair to everyone, including the people who are covered by the Indian treaties in the south.

We also have Native implications in terms of the Alaska side because most of the people involved in the hand trolling operation in southeastern Alaska are in fact Native people. But I would ask you just one thing, and that is this: We really conditioned our acceptance of this treaty, in the final analysis, on the basis that Alaskan citizens in the State would not be brought into the all-citizens suit. It is my understanding that that has now been accepted as a position of the people in the south.

Do you feel that the arrangement is going to be such that we will not be brought in by an extension of the court jurisdiction to Alaska?

Mr. WILKERSON. Yes; I am very much persuaded by that, and we, like I said earlier in my remarks, I think it was a remarkable concession on both parts to subject each other, consistent with that principle, I think we have set up a system where we are meeting each other's needs without binding ourselves to everlasting court process, and particularly the State of Alaska. So I think the stipulation order meets that requirement from Alaska's perspective.

Senator STEVENS. Well, it was important to us mainly because if the Federal court in Washington jumped across Canada to impose

restrictions on us when it could not impose similar restrictions on Canada until there was some agreement that involved all parties, it would just mean further hardship for our people with no assurance that the fish would get to the Indian people in Washington.

Mr. WILKERSON. Exactly.

Senator STEVENS. So I think we have worked it out. I hope we have. And again, I thank you. And our people have been most complimentary of you and your staff in terms of working this out. So we are indebted to you.

Mr. WILKERSON. Thank you.

Senator STEVENS. Mr. Cohen, one of the red herrings that was dragged into this, as far as I am concerned, was the transboundary fisheries in the Stikine River areas, where the Canadians had never had a commercial fishery, and 3 to 4 years ago started subsidizing a fishery in order to raise a claim that would offbalance this negotiation as far as these transboundary rivers.

I note that we did finally agree to a percentage allocation to the Canadians as far as those transboundary rivers are concerned.

Are you satisfied with the arrangement as far as the State of Alaska is concerned on those two rivers?

Mr. COHEN. Senator, yes. In fact, I think that the arrangements are the best that could have possibly been achieved. The arrangements are not as good probably as they were in the 1982 draft on these rivers, but in fact the Canadians had greatly increased their fishery, especially on the Taku. Last year they caught 27,000 sock-eye in the Taku, and they are going to have to drastically cut back that amount this coming year.

So while the arrangements are not perfect on the transboundary rivers, we are satisfied that the levels are low enough that the fisheries in southeast Alaska, while being impacted, are not impacted as great as they would have been if the Canadians were not controlled at all.

Senator STEVENS. And the understanding is that even if they build up a commercial fishery on those transboundary rivers, they will be subject to the limitations, whether it is a commercial or recreational fishery; is that correct?

Mr. COHEN. Yes, Senator, on the Canadian side they are subject to the limitations no matter what type of fishery is being conducted on that side of the river.

Senator STEVENS. Now, let me follow up on the question I gave Mr. Wilkerson. Do you see any way that the *Boldt*-type decisions could now be extended to Alaska if this treaty is ratified?

Mr. COHEN. So far I understand the stipulation that has been discussed today is in the court in Seattle. It has not yet been signed by the judge. Assuming that it is signed, Alaska does feel comfortable that the provisions of the stipulation protect the State from getting hit again after—in addition to the treaty from Chinook allocations. So the State is comfortable in that regard, and that is why the State did sign off on it.

Senator STEVENS. Will that be signed before we are asked to ratify this treaty?

Mr. COHEN. I am not familiar certainly with the judge's schedule, but I assume that unless it was signed today or is being signed today, that it will be done in time to have the package go together.

Mr. WILKERSON. Mr. Chairman, maybe just briefly on that one, the concept is that all three balls become effective on the same date. I think that the judge is available, my understanding, was available this week for signature. It will not go into effect until ratification and final approval of the legislation.

Senator STEVENS. I understood that it all fit together——

Mr. WILKERSON. Yes.

Senator STEVENS. But he could still say at the last minute that he does not like something. So we would sort of like to know that he is going to approve that.

Mr. WILKERSON. I think that that will easily double within the time frames that—my understanding is it is easily doable. It may already have been done, as a matter of fact.

Senator STEVENS. Very good.

I thank you very much, and again, I think that the parties involved ought to be commended for working this out. The impact of this in terms of our relationship with your neighbors to the north, Mr. Wilkerson, and ours to the south, there on the west coast of Canada, I think will improve once this agreement is in effect.

Senator GORTON. Thank you both very, very much.

Our third and final panel will consist of four representatives of Indian tribes and organizations, Allen Pinkham, chairman of the Columbia River Inter-Tribal Fish Commission; Delbert Frank, Commissioner of the Warm Springs Tribal Council, Bill Frank, chairman of the Northwest Indian Fisheries Commission, and Jim Harp, vice chairman of the Northwest Indian Fisheries Commission.

Before I ask the first of you to begin his statement, we have a statement for the record from our colleague, Senator Hatfield, which will be included in the record.

We have a statement for the State of Oregon by Governor Atiyeh which will be included in an appropriate place in the record. And we have written testimony to be included in the record from Robert Zuanich of Purse Seine Vessel Owners Association, Douglas Fricke, Washington Trollers Association, and will have testimony from Jerry Pavlatich and Mark Cedergreen, representing the Pacific Salmon Treaty Coalition.

Senator STEVENS. Mr. Chairman, we also have a statement of the Governor of Alaska who was here but was called out of town this morning and was unable to appear personally. I would ask that his statement be printed in the record.

Senator GORTON. Without objection, it will also be included, and it would not be appropriate to start this panel without complimenting its members for the hard and constructive work which each of them has put into reaching a decision with many complex issues and many parties. Without your work, we would not be here in this position today.

So we will start with Mr. Wapato.

STATEMENTS OF ALLEN PINKHAM, CHAIRMAN, COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION; AND S. TIMOTHY WAPATO, EXECUTIVE DIRECTOR; NATHAN JIM, WARM SPRINGS FISH & WILDLIFE COMMITTEE; BILL FRANK, CHAIRMAN, NORTHWEST INDIAN FISHERIES COMMISSION; AND JIM HARP, VICE CHAIRMAN; LEVI GEORGE, SECRETARY, FISH AND WILDLIFE COMMITTEE OF YAKIMA NATION

Mr. WAPATO. Mr. Chairman, my name is Tim Wapato. I am executive director of the Columbia River Inter-Tribal Fish Commission. That commission is comprised of the fish and wildlife committees of the four Columbia River tribes that hold treaty fishing rights in the Columbia basin, the Warm Springs Tribe in Oregon, the Umatilla Tribe in Oregon, the Yakima Indian Nation in the State of Washington, and the Nez Perce Tribe of Idaho.

We do have several statements that we ask be entered into the record, and I think most of the rest of the people will also have an oral statement this morning.

I would just like to say we appreciate the opportunity to appear before this committee and to offer our views on the treaty. It is good to see you again, Senator Gorton. I had the opportunity of working with you, you may recall, on the State Law and Justice Planning Committee for the State of Washington, and through the years with some of these fishery issues.

We would like to stress—and it has been testified to by the two previous panels—the tremendous compromise that was necessary to achieve this package and this treaty. That compromise is reflected in the listing in the first page of the treaty briefing package. If you look at it closely, you will notice it contains the names of 23 non-Indian organizations, fishing groups, charter boats, sportsmen, two inter-tribal fish commissions, 24 tribes and three states, all with very specific special interests, and all dealing with stocks that are intermingled and commingled in ocean fisheries.

We note that on that listing there are several—more than several—organizations that as recently as 86 months ago were of, shall we say, different persuasion than the tribes in regard to fishing management. Through a get-together in March of last year, through a very small handful of people, including Mark Cedergreen, Phil Anderson from the Charter Boat Association in Washington, Jerry Pavletich, we discussed the possibility of seeing whether we could come up with some sort of workable solution, toward getting the treaty.

It was our belief that in the past the treaty had been perceived strictly as an Alaska-Washington or a regional interest. It was our perception that that was not accurate. It is definitely a national concern. The fish that are caught in Alaska, Washington, and Oregon are marketed internationally and throughout the United States. We hoped that we could somehow build a coalition that could get that message across.

In that coalition, as we struggled our way down the road, it became obvious to all of the members of that organization that cooperation, coordination and comanagement were the way to achieve our goals.

I want to tell you, we had some yelling matches. I will not pull any punches. We heard a lot of philosophy, and we heard it at various different levels and volumes of presentation. I think we did come to a very good understanding. We now have begun some very good interactions in issues other than fisheries as a result of the coalitions meetings.

I would like to reiterate some of Bill Wilkerson's testimony. In order to resolve the tough issues that face management, particularly in the outside between the domestic allocations, we had to have this treaty. There was just no doubt about it.

With respect to the State of Alaska and Alaska's concerns that somehow they may be subjected to what was called "two bites out of the apple," (one bite reduction in their fishery to achieve the treaty and perhaps another bite hanging over their head if a lawsuit should reach up and grab them,) after intense intertribal meetings, it was determined that perhaps the treaty, coupled with reductions by Alaska would suffice for a reduction that might be necessary in Alaska fishery alone. In fact, I think history of the fisheries alone proves that any reductions that might be taken by Alaska without the treaty could very easily be gobbled up in the vast British Columbia fishery.

Those things were in consideration amongst the tribal leadership as we worked to arrive at these acceptable packages.

The lack of a treaty and lack of controls on ocean harvest has held up enhancement projects. It has held up projects also in Canada, but it more specifically has held up projects in the Pacific Northwest.

Two acts of Congress passed in 1980, the Salmon and Steelhead Conservation and Enhancement Act, and the Northwest Power Planning and Conservation Act, both contain programs that promise massive rehabilitation of fish runs, particularly for the Columbia River Fisheries which, as you know, have been saddled with a burden not only by hydroelectric projects but by the overfishing in the ocean.

We see the numbers of fish returning giving the managers, Bill Wilkersons and the Jack Donaldsons and whoever may follow them, and the tribal leadership, an opportunity to sit down and negotiate workable management plans. The atmosphere of cooperation among the fishery agencies and the tribes is such as we have never seen. We are able to sit down in a room with the State fishery managers, and they in turn to sit down with the tribes and we listen to each other to find out each other's needs and concerns, and to work on the total problem. I think probably for the last 25 years we have been working on only the problem of allocation. We are now able, through the influence of people like Bill Wilkerson, and Jack Donaldson to work with the total problem, the production, where that is, specific sites. Each and every one of the tribes has fishery programs, enhancement programs. Each of the commissions, Indian fish commissions is providing technical assistance over the broad spectrum of coordinated management.

I am not going to sit here and tell you everything is rosy. Now we have to make the treaty work. There is a lot of work and things that have to be done in order to make this treaty work. We need to work in each area. Alaska needs to work with enhancement

projects. We are happy to see the Senators putting the hard questions to the administration. We are very supportive of that line of questioning. We have been making our rounds also in the last week, talking to the various people, keeping that pressure on and assisting with that pressure to live up to the Federal commitment to this treaty.

So with that, I would like to introduce the rest of the panel and begin with Billy Frank from the Northwest Indian Fishery Commission.

Senator GORTON. We will include Mr. Pinkham's statement in the record, and the rest of them as well.

Billy.

Mr. FRANK. Mr. Chairman, Senator Stevens, I am chairman of Northwest Indian Fish Commission and represent 17 tribes in the Puget Sound and the Straits of Juan de Fuca.

But I just have a couple of comments that I just wanted to add to already written testimony that we submitted. Some of the things that I think everyone has said about everything here today, and it is all good, and I feel really good about it, that we can sit here and all go the same direction for the sake of the resource, and the sake of our people in the Northern part of the country and in the Southern part of the country.

It is something unique in my lifetime because it is an allocation agreement between the States and the tribes and the country, the Canadian country, and I think that we are going to see that we have got some questions that I hear that are being said out loud of some kind of maybe not trusting one another, and I think that those questions are going to take care of themselves as the rebuild starts in the next several years of us working together, putting the comprehensive plans together in the South Sound, the North Sound, the Straits of Juan de Fuca, the Pacific Coast, and in the Columbia River.

I believe that putting the habitat back together that we are working on here in the Southern end of the United States is a very important part of this thing. I just have to speak on the Indian part of this whole thing, and not speaking for the Senator from Alaska, but the native people, the Treaty Tribes of the South are—their communities have not seen salmon. You heard a little bit of testimony of hundreds, maybe less than that getting back to some of the areas. We have communities on these rivers, we have terminal area fisheries, we have different fisheries all over the Southern part of the 48 States here, and we feel that these communities are now going to see the salmon back. This is a little daylight that we see of the puzzle of the anadromous fish of the six species that we are hoping to start working on and hopefully this stuff will—there will be daylight at the end of the tunnel.

The Indian communities, without the salmon, they rely solely upon the salmon down here. We do not have timber, we do not have mines or farming land. We have very little land bases. We solely depend upon the salmon, and we see that those salmon are going to come back through this process right now, and that makes us happy.

And the non-Indian communities that have been depressed along the ocean, those communities are going to start coming alive.

Hopefully in the next several years we are going to put it together. And we are committed, the tribes of the Northwest are committed to work with the State of Alaska and the State of Oregon and Washington and Idaho, and we have had some good sitting downs and getting to know one another, and I hope that continues to carry on through.

Thank you.

[The statement follows:]

STATEMENT OF BILL FRANK, JR., CHAIRMAN, NORTHWEST INDIAN FISHERIES
COMMISSION

Thank you for the opportunity to appear before your Committee to speak on the subject of the U.S.—Canada Pacific Salmon Treaty and its implementing legislation. My name is Bill Frank, Jr. I am chairman of the Northwest Indian Fisheries Commission. I speak today on behalf of the Indian Tribes of Puget Sound and the Strait of Juan de Fuca.

One hundred thirty years ago my grandfather and great uncle, representing Nisqually Indian villages, signed the Treaty of Medicine Creek. All the Tribes I represent signed treaties to preserve our homelands, and secure our fisheries, which are central to our way of life.

I am here today to support another treaty—the Pacific Salmon Treaty with Canada—and its implementing legislation. Just as the Treaty of Medicine Creek secures my right, and that of my children, to be Nisqually fish-eating Indians of the Northwest, so the Pacific Salmon Treaty secures the future of the salmon that are the subject of Indian treaties of the Northwest. It is important to all Northwest Indian Tribes in Puget Sound, the Washington Coast and the Columbia River. Without it, we may lose many of our resources and an entire way of life.

As recent history shows, the management of our salmon fisheries is in turmoil. The salmon resource is being threatened by competing interests trying to intercept fish before they migrate to the next fishery in line. Therefore, the fish-producing jurisdictions are losing their incentive to invest in the resource.

This treaty represents an important step toward rational salmon management. Although it is not a cure all, the treaty will provide the means and foundation for all management entities to work together. Even with the treaty, it will not be easy. Without it, it would continue to be impossible.

The Pacific Salmon Treaty and implementing legislation represent a delicate balance of compromises. These compromises were struck between the U.S. and Canada, and between the competing domestic interests of the Northwest treaty Tribes and the states of Washington, Oregon and Alaska. They culminate a twenty-year effort. If this delicate balance is changed in any way, the treaty will not work.

The implementing legislation properly emphasizes the role of the states of Washington, Oregon and Alaska and the Tribes, as the fishery managers with primary responsibility for the salmon. Under the implementing legislation we, the Tribes and states, must coordinate and cooperate in management, enhancement and regulation to attain the objectives of the Treaty.

The Puget Sound Indian Tribes represent a combination of interests. First, Puget Sound salmon stocks, particularly chinook, coho and chum, are heavily intercepted by Canada. About 55 percent of the Puget Sound chinook salmon and 35 to 50 percent of the coho are harvested in Canada now. Moreover, in the past few years, Canada has been increasing these interceptions. These stocks are essential to all the Tribes' fisheries. Second, many Tribes depend on fisheries that intercept Canadian stocks, particularly Fraser River sockeye and pink. The Treaty, therefore, represents a balance between these two interests.

On one hand, the treaty will provide for increased returns to Puget Sound of important chinook and coho runs. To some extent, these increases were secured by giving up potential U.S. harvest of Fraser River sockeye and pink. On the other hand, the treaty provides for a level of stability in the fisheries for Fraser sockeye and pink. In recent years, the U.S. share of these runs has declined due to Canada's increased catches outside areas affected by the 1930 Fraser River Convention (IPSFC). The proposed treaty assures the U.S. a share of the total allowable harvest, regardless of where they are caught.

In conclusion, this treaty and legislation will allow us to make sense out of salmon management. It provides the inter-jurisdictional framework for cooperative salmon management that is necessary to revitalize our fisheries and restore the re-

source to its once bountiful levels. With the treaty each of the Tribes and states has the incentive to coordinate and cooperate to achieve common goals and manage objectives for the benefit of all of our United States fisheries.

I urge you to support us and the salmon resource by enacting H.R. 1093 together with the fiscal amendments jointly proposed by the U.S. Delegation in precisely the manner in which they have been presented. Enacting this legislation without other modifications will preserve the delicate balance worked out by the state and tribal parties to the U.S. Delegation.

It is vital that all of us, Indian and non-Indian, make this treaty work. It is our one chance to establish a better future for Pacific Northwest salmon and all the people who depend on it.

Thank you.

Senator GORTON. Mr. Harp?

Mr. HARP. Good morning, Mr. Chairman, members of the committee. Thank you for the opportunity to appear before you today.

My name is Jim Harp. I am the director of fisheries for the Quinault Indian Nation. I am also the vice chairman of the Northwest Indian Fisheries Commission. I represent the Quinault, Hoh, and Quileute Tribes along the coast of Washington.

The coast of Washington fisheries in recent years have seen a dramatic decline in the catches in the terminal areas along the coast. As Director Wilkerson has already mentioned, last year, the 1984 ocean season and the subsequent fall fishing season along the coast of Washington was record lows, 100,000 coho being caught off the Washington waters resulted in 300 wild coho being harvest in the Queets River, which are record lows.

With that trend, we have had a lot of concern about what is going to happen to the future of our people and also the future of the resource. We are here today to urge the committee to support the passage of the United States-Canada fishing treaty. The treaty in itself is not the cure all, though. It is just a beginning. It becomes a part of a longer range process that will hopefully rebuild the stocks and provide fair distribution of the harvestable fish to the different groups.

I would like to comment on Director Wilkerson's comments that both Director Wilkerson and myself have been committed for the last year to work on the longer term management plan for the north coast. We are presently in the process, in addition to this process, of trying to develop the 1985 management plans for the ocean as well as the north coastal streams, and also looking farther into the future toward the development of the longer term management plan so that all of our needs can be met.

As Director Wilkerson has already said, with the catches of 100,000 off the coast of Washington, 300 wild coho in the Queets River and 2.3 million coho off the west coast of Vancouver Island, and the bulk of them being Washington origin stocks, we know where our fish are being caught, and we feel with this treaty, it does put a lid on the coho stocks that are critical to the tribes along the coast, and also to the ocean troll and recreational fisheries.

Again, the treaty does not solve all of this, but it is another part of this big puzzle that we are in the process of trying to piece together to make sense out of what is happening up in the northwest.

Enhancement has been a word that has been mentioned this morning as well as other hearings this week, and that may be

something that needs to be looked at also, but my feelings about enhancement is there has to be a carefully laid out plan to put it together because just building a new hatchery somewhere, those concrete monuments may not solve the problem. In fact, it may make the problem even larger. So I think we have to take a lot of thought and consideration into what enhancement is and how do we best go about it.

I do have a written testimony that has been prepared and submitted. So with that, that summarizes the comments I wanted to make this morning.

Thank you.

[The statement follows:]

STATEMENT OF JIM HARP, VICE CHAIRMAN, NORTHWEST INDIAN FISHERIES COMMISSION

Thank you for the opportunity to appear before your Committee. My name is Jim Harp. I am the Director of Fisheries for the Quinault Nation and I represent the Quinault, Quileute and Hoh Tribes. I am also the Vice Chairman of the Northwest Indian Fisheries Commission.

The traditional fisheries of the Quinault, Quileute and Hoh Tribes are totally dependent upon the runs of fish that return to the river systems along the Washington coast.

More and more over the last few years our fishermen have found themselves sitting on the bank wondering where the fish are. Many of our fishermen can only see what's happening in the rivers. The real answer to the question lies hundreds of miles away, off the coasts of Canada and Alaska.

Fisheries in these areas now intercept 65 percent of the chinook and 45 percent of the coho originating in Washington coastal rivers. Harvest rates have been increasing and run sizes decreasing, but managers of intercepting fisheries have not been willing to reduce their catch. So many of our fish are being intercepted that few are left for harvest off the Washington coast and in our rivers. This causes serious problems for coastal communities; potentials for social stress have increased within Indian and non-Indian communities alike as the resource has diminished.

Our fishermen have had to sit on the bank in order to save the fish for future generations. While ocean fishermen catch fish from many different river systems, we depend upon the fish that return to the Quillayute, Hoh, Queets, Quinault and Grays Harbor Rivers. Mixed-stock intercepting fisheries may not care what happens to our stocks, but we do because those fish have been central to our cultures and economies for countless generations.

At the heart of the problem has been the lack of a treaty between the United States and Canada which can control each country's catch of salmon originating in the other country's rivers. Without a treaty, each fishery tries to take as many fish as it can so long as the resource lasts. Conservation programs and investments in resource production can't be made effective because there is no way to limit interceptions. It's sort of like two youngsters sipping lemonade from the same glass—without cooperation, if one tries to save, the other will simply slurp up more.

While we've been waiting for a treaty with Canada, interceptions have intensified as different fishing interests tried to gain a negotiating advantage. Harvest rates have now reached levels that are so high that the future of many stocks is in jeopardy. In the last two years, fisheries experts from the United States and Canada have agreed that a coastwide conservation program is necessary to rebuild depressed stocks from California to Alaska. Without a treaty, that program cannot be implemented.

Without a sound salmon interception treaty between the United States and Canada, we lack the basis to make rational decisions to protect or enhance our fisheries resources. Without a sound treaty to coordinate management and control harvests throughout the migratory range of the stocks, the future of the salmon and the salmon people is bleak indeed.

The coastal tribes, along with tribes from the Columbia River and Puget Sound, state fisheries managers, and other members of the U.S. delegation, have been trying to help develop a salmon treaty with Canada for nearly twenty years. The treaty signed by Counselor Derwinski and Special Negotiator Kronmiller on January 28th, represents the latest attempt at reaching an agreement.

A treaty just for the sake of having a treaty isn't satisfactory. To succeed, the treaty and the domestic legislation implementing it must be fair and adequately address the concerns of a variety of important interests. The treaty and H.R. 1093, along with the fiscal amendments the tribes and states have jointly proposed, provide delicately balanced but sensible approaches to dealing with complex salmon management problems. Together, they would create a workable management structure for international coordination while protecting the rights and interests of treaty Indian and state fisheries managers. They are consistent with and do not abrogate the treaty secured fishing rights of the tribes, nor do they impair the sovereign rights of the states. The responsibility for implementation would remain at the local level where it belongs. More importantly, however, the new decision-making system would require managers to work together cooperatively to overcome differences that have spawned conflict in the past.

The treaty-legislative package before you represents a lot of hard work and compromise by the members of the U.S. delegation. The sensitivity surrounding the package is extreme; any substantial change in either the treaty or H.R. 1093 that is not agreed upon could cause the whole thing to unravel. Although there are many aspects of the package that could be improved from the tribal point of view, it is with this perspective that we have elected not to seek amendments to either the treaty or the legislation other than those identified in the letter signed by the state fisheries directors of Washington, Oregon and Alaska and tribal representatives from the Columbia River, Puget Sound and the Washington Coast.

While not perfect by any stretch of the imagination, the Treaty and H.R. 1093 represent significant steps in the right direction. It's a good start. The package is no panacea in itself, we'll all have to do our best to make it work. We recognize full well that if only perfect solutions were tolerable then we would still be waiting for the solution as the last salmon disappears.

We support the Treaty and H.R. 1093. They offer us something there has been a scarcity of under the status quo—simply HOPE. Hope for the salmon. Hope for the future of the salmon people. Thank you.

Senator GORTON. Thank you, Mr. Harp. Your testimony, Bill Frank's testimony, and Mr. Delbert Frank, who I understand is ill and unable to be here today, will all be included in the record in full.

Mr. Wapato, did you have someone else who wished to speak?

Mr. WAPATO. Yes, Mr. Pinkham has a few statements.

Mr. PINKHAM. Thank you, Mr. Chairman.

My name is Allen Pinkham. I am the chairman of the Nez Perce Tribal Executive Committee and also chairman of the Columbia River Inter-Tribal Fish Commission.

This is indeed a historic moment for Indian people across Indian country. This treaty is very important not only to the Indian people, but to non-Indian also. This salmon treaty upholds Indian fishing rights. Of course, this negotiation process has been very painful for the 24 involved tribes. But yet, we did come to agreement. It is remarkable that 24 tribes came together and agrees this is what we want and this is the way we are going to do it. And then we entered into an agreement with Oregon and Washington and the other Federal agencies that are and did participate in this process.

The 24 tribes support this salmon treaty, and also the legislative action and the stipulation that has been entered into. And we are in full support of H.R. 1093. I think what this really means is that now tribes can exert their management and comanagement in their respective reservations and usual and accustomed sites. I think it is very important that we are represented on the U.S. Commission and also the panels that give advice to the Commission itself.

What occurs here is that everyone benefits from this treaty. As I had mentioned before, and not only do the people benefit, but the resource itself comes out better than it has in the past years. We have seen a decline in the Columbia River for years and years because of certain events that have taken place there. Now we can get this turned around, we can get those fish back up into the Columbia River where historically they meant a great deal to the tribes that lived along the Columbia River.

I think now that this has occurred we can go forward. This enhancement language that is in the treaty does mean something now, and we can get this done. Within the next few years we hope to see this benefit.

With that, this is just to summarize my testimony and thanking you for entering in my written statement.

And we have here the rest of the Commission members, Mr. Nathan Jim, who is taking Delbert Frank's place because Delbert was unable to get here, and also Levi George from the Yakima Indian Nation, and in the audience is Kathryn Brigham from the Umatilla Reservation. She has been very active in this process. I would not want to forget her.

So with that, I will turn it over to Mr. Jim.

[The statement follows:]

STATEMENT OF ALLEN PINKHAM, CHAIRMAN, COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

Good morning, Mr. Chairman and distinguished members of this Committee. I am Allen Pinkham, Chairman of the Columbia River Inter-Tribal Fish Commission and also Chairman of the Nez Perce Tribal Executive Committee. On behalf of the Yakima, Warm Springs, Umatilla and Nez Perce Indian tribes, I would like to thank the Committee for offering us the opportunity to testify on the implementing legislation to accompany the United States-Canada Pacific Salmon Treaty. I hope my comments will be helpful to you.

To begin my remarks, I would like to note that it is my understanding that this Committee intends to consider enabling legislation identical to H.R. 1093, presently under review by the House Committee on Merchant Marine and Fisheries. My comments are, therefore, directed to that bill. The Columbia River treaty Indian tribes fully support H.R. 1093, and we urge you to accept that legislation in its entirety.

Mr. Chairman, the Columbia River treaty Indian tribes have traditionally relied on salmon as a foundation of tribal cultures, economies, religion, and diet. Since our respective Governments signed the treaties that reserved our fishing rights 130 years ago, the salmon's importance to our way of life has not diminished, but the salmon returning to our fishing areas have grown fewer and fewer.

For more than a century, the salmon of the Columbia River have been abused. Dams flooded spawning habitat and made salmon migration next to impossible. Mining, logging, road-building and pollution have taken their heavy toll. In the last 20 years, ocean fishing fleets—especially those of Canada and Southeast Alaska—have expanded their harvests of Columbia River salmon to the point that the very survival of some salmon runs was in question.

To many people, it appeared that the day of the Columbia River salmon has passed. But to the Indian people, and to some non-Indians as well, the passing of the salmon would have meant the passing of a brother and the death of a vital part of ourselves.

Mr. Chairman, the people of the Pacific Northwest, Indian and non-Indian alike, are determined to see that the Columbia River salmon survive—today, tomorrow and every day that follows. We are taking every step towards that goal that we in the region can take. Northwest fishermen have greatly reduced their harvests. Tribal, state, and federal environmental laws are working to restore and protect salmon habitat. Through the Northwest Power Act of 1980, the region's electric ratepayers have committed as much as \$750 million in hydroelectric power revenues to remedy the damage done to salmon runs by federal dams on the Columbia River. Pacific Northwest state and tribal fishery agencies have agreed to a new, coordinat-

ed management structure under the authority of the Salmon and Steelhead Enhancement Act, which originated in this Committee in 1980.

We in the Columbia River basin are doing everything we can to provide the salmon with a home. Mr Chairman, we need your help to ensure that our salmon can return from their ocean journeys. This simple objective underlies the legislation you are now considering. H.R. 1093 and the United States-Canada Pacific Salmon Interception Treaty are tools that have been carefully designed to solve the key problem of ocean interception and overharvest of our salmon—a problem for which there is no local solution.

Of all the salmon stocks that return to the Columbia River, a none is more important to us than the chinook. The spring, summer and fall chinook run each has a key place in our religion, our culture and economy. And of all the Columbia River salmon, chinook have been the most heavily overharvested by the ocean fishing fleets outside the Northwest. Some simple figures will illustrate the problem we have faced.

In recent years, almost three out of every four Columbia upriver fall chinook harvested has been caught by fishermen outside the Columbia River. More than 40 percent of the catch of upriver fall chinook spawned in Washington, Oregon and Idaho has gone to Canadian fishermen. About 35 percent of the catch has gone to the Southeast Alaskan fleet.

Northern ocean interceptions of Columbia River chinook have caused more than a misallocation of harvest. The overriding problem is chinook conservation. Without an international agreement to regulate ocean interceptions, no mechanism has been available to ensure that ocean fisheries outside the Northwest would or could be controlled to meet chinook conservation needs. Though we have taken measures to protect salmon and to increase salmon production, the benefits of those steps would, without the Salmon Treaty, accrue primarily to the Canadian troll fleet—not to salmon conservation, and not to local fishermen.

For these reasons, we have fought hard for the United States-Canada Pacific Salmon Interception Treaty. As you know, our efforts have been met with considerable success. On January 28th of this year, after 14 years of negotiations, the United States and Canada finally signed an agreement to control each nation's harvest of the other's salmon.

Passage of legislation identical to H.R. 1093, and the ratification of the US-Canada Treaty will bring the Columbia River chinook home—for spawning and for harvest by local fishermen. On behalf of the Columbia River treaty Indian tribes, I ask you to once again join us in the restoration of Columbia River chinook by giving your strongest support to the legislation now before this Subcommittee.

Mr. Chairman, the Columbia River tribes fully support H.R. 1093 as that bill is now written, and we have proposed certain fiscal amendments which I urge you to accept. Of course, we would support identical legislation before this chamber. H.R. 1093, if coupled with our proposed amendments, will enable the Indian and non-Indian citizens of Oregon, Washington, Idaho and Alaska to enjoy the benefits of the salmon they produce and to effectively conserve our priceless salmon resource.

H.R. 1093 will fully and fairly implement the US-Canada Pacific Salmon Treaty. That legislation deals with one of the most complex and controversial legal, political, and technical issues confronting the people of the Northwest and Alaska. A workable but delicate balance has been struck in that bill. The balance is the result of painstaking negotiations which fairly involved all elements of the affected fishing and fishery management interests.

I urge that this Committee adopt legislation identical to H.R. 1093 and that there be no amendment to that bill other than those that the treaty Indian tribes, the states of Oregon, Washington and Alaska have jointly recommended. On behalf of the Columbia River treaty Indian tribes, I ask that this Committee favorably consider legislation identical to H.R. 1093 and recommend its approval by the full Senate.

Mr. Chairman, I would again like to thank you for this opportunity to testify. I will be pleased to answer any questions you or the members of this Committee might have.

Mr. JIM. Thank you.

Thank you, Mr. Chairman and the subcommittee. My name is Nathan Jim. I am speaking for and on behalf of Delbert Frank, who is the vice chairman of the Warm Springs Nation of Oregon and is a member of the fish and wildlife committee and a member of the Commission on the Inter-Tribal Fish Commission of the Columbia.

We are speaking to you today to urge your support of S. 516, for the legislation implementing the United States-Canada Pacific Salmon Treaty. This is a very happy occasion for all of us, the Indian people who use the salmon as a social and culture, and the treaties that gave us the right as sovereign nations to negotiate with the United States that we reserved the right and to have this right, we must have the resource in which to carry on our religion.

And so in the treaty of 1855 we reserved the right to hunt and fish in our usual and custom place, and today with that in mind, that we are a nation within a nation, 24 nations, along with the United States are working together, with three States and one foreign country to make this agreement for the benefit of the natural resources and for the benefit of all people.

As we all know that the history of the Columbia River was once the biggest producer of salmon in the world. Now we can remember when there was no dams and when water was flowing and even Lewis and Clark recorded that you could walk across to the other side on the backs of so many salmon. As is mentioned, the many activities, the dams, the overfishing have seen our salmon dwindle, smaller and smaller, and then that puts our treaty and fishing rights in jeopardy if there is no salmon there.

In the recent years we have fought hard and negotiated. Through litigation, legislation and moral persuasion, the Warm Springs and other Columbia River tribes pursued a broad range strategy to rebuild the Columbia River salmon runs, and we felt that the involvement in United States-Canada as a nation along with the United States to take part for the implementing of this legislation is a vital cornerstone of the tribe's strategy.

For a time we did not know where our salmon went, but through the knowledge that has come from the expertise of biologists, that we now know who catches our salmon by the coated wire method, and we do know where our salmon go, and that is important that those people recognize that those salmon are raised and reared, and we provide the place for them to come back to, and the more that we can get back, this again will benefit everybody, commercial, recreation, all people.

And there is only one solution to that along with the tribe's efforts, and that is that we should have this United States and Canada treaty, its implementing language, and of course that you have heard Alaska's concern, and we do have a stipulation that our tribe as a nation, by tribal resolution, does therefore support passage of this S. 516, and the United States-Canada—and make sure that passage is the way we negotiated it with only the changes that we are involved in.

And I would like to thank you at this time for and on behalf of Delbert Frank for this time to express my thoughts.

[The statement follows:]

STATEMENT OF DELBERT FRANK, SR. ON BEHALF OF THE CONFEDERATED TRIBES OF THE
WARM SPRINGS RESERVATION OF OREGON

Mr. Chairman and members of the subcommittee, my name is Delbert Frank, Sr. I am Vice Chairman of the Warm Springs Tribal Council and a member of the Warm Springs Fish & Wildlife Committee. I am speaking today to urge your support for the legislation implementing the U.S.-Canada Pacific Salmon Treaty.

This is a very happy day for me. I have served on the Warm Springs Tribal Council almost continuously for thirty years. During that time I have been committed to one objective above all others—protecting and preserving our rights reserved in the Warm Springs Treaty of 1855. The reserved fishing right is perhaps the heart of our Treaty. We agreed in the Treaty to move to a reservation away from the Columbia River, but we reserved the right to return to the river to catch the salmon on which our culture, religion and way of life depend. To this day, our culture and religion revolve around the salmon, especially the chinook salmon. For our 1855 Treaty and our way of life to have meaning, we must have salmon.

The Columbia River, as everyone knows, used to produce the world's greatest chinook salmon runs. As a boy living along the river, I remember when there were no hydroelectric dams and the salmon fisheries for both Indians and non-Indians were thriving. Over the years, as the free-flowing river was turned into a series of reservoirs, as the historic Indian fishing places were flooded and lost forever, and as the off-shore salmon fishing fleets expanded dramatically, the Indian people saw the salmon runs dwindle smaller and smaller. The decline of the salmon runs tells us that our treaty fishing rights were in jeopardy.

In recent years we have fought hard to reverse this trend. Through litigation, legislation and moral persuasion, Warm Springs and the other Columbia River treaty tribes have pursued a broad-ranging strategy to rebuild the Columbia River salmon runs. This strategy is now beginning to show results. The U.S.-Canada Pacific Salmon Treaty and its implementing legislation is a vital cornerstone of the tribes' strategy.

For a long time we did not know who caught our salmon after they left our inland waters on their journey to the ocean and back. The Indian tribes just did not have the scientific expertise to find out where our salmon went and who was catching them. But now we do. We now know that many of our upper Columbia River chinook salmon go to British Columbia and southeast Alaska waters and are caught there in large numbers by recreational and commercial fishermen. We also know that overharvest of chinook salmon in those two areas is a major reason for the decline of some Columbia River chinook stocks and the diminishment of our treaty fishing right.

There is only one real solution to this problem—and that solution is before you today. The U.S.-Canada Pacific Salmon Treaty, its implementing legislation, and a separate court stipulation and order between Alaska and the tribes, form a three-part package that promises to solve the northern interception problem for Columbia River chinook for many, many years.

As I said, this is a very happy day for me. In all the years I have worked to protect the fisheries and the treaty fishing rights of my people, this is perhaps the first time we have worked hand in hand with non-Indian fishing interests to identify a problem, choose the correct solution, and see the solution implemented. This bill is part of that solution. For the sake of the priceless chinook salmon resource of the Columbia River basin, and for the sake of the treaty rights of the Warm Springs people, I urge swift passage of the implementing legislation in its present form.

Thank you.

Mr. GEORGE. Chairman Gorton, Ted Stevens, audience, I do not have any written statement, but something in my heart tells me to say what I have to say. My name is Levi George. I am the secretary of Fish and Wildlife for the Yakima Nation, and vice chairman, Columbia River Inter-Tribal Fish Commission. I am concerned, like everybody is.

You know, this goes way back, I guess to when Magnuson's bill was introduced. The Yakima Nation got on the board and supported Magnuson's bill. We foresaw this situation, as we discussed all morning, and I am glad to hear that Ted Stevens has been involved in fishery for 30 years. That is very good.

You heard what Mr. Nathan Jim said just a minute ago. True, at one time you could walk on the fishes' backs, walk across the creeks and rivers. You know, Mr. Stevens, I am a fisherman all my life, and I am pushing 60 years old. I saw those days.

Therefore, I fought, probably with Slade Gorton—I believe Slade remembers that—and I think today we are almost sitting on the same side of the table today, and that's good. I appreciate that.

You know, when the 3- to 200-mile limit became reality, we got on board with Magnuson, understanding that something would come up like today, the treaty. And our thoughts in the Indian world, someplace along the line I guess the main concern the tribes had at the time that we would do away with the foreign fleets that were catching all our fish, Japanese, Koreans, Russians and other foreign fleets, but it didn't work out that way. But now, today, I think it is almost better than that. We are going to all work together and conserve the resource.

Like I always say to my friends, jokingly, it looks like you are going to be here in my land forever, even though you are flying to the moon, but you are not going to go away. You are going to stay here. So we are going to have to share the resource that we have here in this country forever.

So you had better work with us. And I appreciate what is going through here. And I am involved in this United States and Canada negotiations since 1977, and today I can holler and scream, it is becoming reality, and I hope we will all work together and conserve the resource.

That is my short statement. Thank you, Slade Gorton, Ted Stevens, and people, thank you.

Senator GORTON. Thank you very, very much.

Mr. Wapato, I would like to ask of you the questions identical to those that we asked of Mr. Wilkerson about the *All-Citizens* suit.

The first would be are you willing to negotiate the unresolved issues under that *All-Citizens* lawsuit?

Mr. WAPATO. Yes. We are very committed. We worked very hard. The stipulation, which in its final form is about 11 pages, was negotiated at great length. All the concepts behind those words were fully discussed for countless hours.

We see that there are several relation issues. There's the *All-Citizens* case and, there is the *United States v. Oregon* litigation. They have to be negotiated on parallel course, although they are not the same package. We cannot negotiate something in the river if we do not have an ocean connection to it, and we cannot really do an ocean negotiation unless we know what stocks are going to be produced. So we are working both of those trails. We have had a whole series of meetings. Those will continue.

Along that line, we must say that we are negotiating the total fishery package. The fish that are now made available through the United States-Canada treaty, as Bill Wilkerson has indicated, represents transfers, of some 400,000 Chinook and 500,000 coho, that does not count what we can do with enhancement coming down the road. But we have to negotiate all of the fisheries.

There was a question, I guess, as to flexibility. Will there be some flexibility? I think that is one of the bases of the negotiation, that in some aspects, in some fisheries, the sharing may be more than 50 percent. In other fisheries it may be far less than 50 percent. What we are looking for is what are the needs if the various fisheries and how do we make that work out.

Senator GORTON. Are all affected tribes committed to a flexible approach to resolving these issues? For example, are the Indian tribes unwaivering or flexible on the issue of a 50-50 split, river by river, run by run, on all stocks?

Mr. WAPATO. My impression from the meeting is that the flexibility is there. There is no unwaivering on either the part of the tribes or on the part of the States.

Senator GORTON. Can you describe, as Mr. Wilkerson did, the process or the kind of communications that you are engaged with, with the other user groups and the various agencies which are concerned with this process?

Mr. WAPATO. Yes. We meet with the organizations who are represented within the United States-Canadian Coalition, beyond that, with organizations who aren't in that coalition, we do actively solicit their participation. We actively solicit an opportunity for us as tribes to come and talk with them as either individuals or groups, and it has been our experience—and Billy Frank, I think, can back this up—that once we are able to go meet with the people and get past that immediate emotional part, and then start talking the issues, that we have been able usually to come out with another ally for the cooperation and negotiated type settlement.

Senator GORTON. Great.

Senator Stevens?

Senator STEVENS. Thank you very much. I am pleased that you are all here.

Mr. George, I welcome a young fisherman. I am delighted with your statements and the way you have approached this, and I think having worked with many of your people over the years, I think they are very well represented in these negotiations, and we undoubtedly will be seeing one another over the years to come as we talk about the enhancement projects and where they are to be located and how they are to function.

I think you made a very valid point about bricks and mortar, and I would invite you to pay some attention to the experiments in the State of Alaska on annual enhancement mechanisms that do not involve bricks and mortar and get I think a substantial return, much more so in terms of the dollar investment. And that takes an understanding of everyone concerned about where those projects are going to be placed on a rotating basis to bring about the greatest enhancement possible.

I congratulate you and thank you very much for your statements.

Mr. WAPATO. Thank you.

One last comment. We have spent a considerable amount of time with Earl Kreiger from the Alaska Troll Association, Barry McClellan and the rest of those boys up there, and we have had some interesting conversations.

I would like to say that we attended the North Pacific Fishery Management Council meeting in Sitka in the early part of February and were pleased with the fact that 40 trollers got up and testified before that body and not one testified against the treaty. That was evidence to us that Don Collingsworth and that Earl Kreiger and the rest of the people had gone back and done their homework and had carried out their commitment to support the treaty within their communities.

We also had conversations with the Alaska Native Brotherhood, the Alaska Federation of Natives, particularly those whose headquarters were in Sitka, Ketchikan and Juneau. They are our broth-

ers also, and we did not want to be taking actions that might be harmful to their fisheries. So we made sure that through each step of this we would journey back up there and hold conversations with them.

Senator STEVENS. Thank you very much.

Senator GORTON. Thank you all very, very much. We really appreciate your coming and all you have done to get us to this point. With that, the hearing is adjourned.

[Whereupon, at 11 o'clock a.m., the committee recessed subject to the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF HON. MARK O. HATFIELD, U.S. SENATOR FROM OREGON

For the past two decades, it has been clear that there was a crisis brewing in the North Pacific. Once plentiful stocks of salmon were dwindling. Coastal communities dependent upon the salmon resource were suffering economic difficulties as the fishing fleet returned with fewer fish. Indians who had historically relied upon large numbers of salmon returning to their spawning grounds found their harvests to be declining. It was obvious that action needed to be taken to reverse this trend.

One solution to the problem is on the verge of becoming a reality. Negotiators from the United States and Canada are to be commended for successfully reaching an agreement on a Pacific Salmon Interception Treaty. This accord is fair and equitable to all parties. But it was signed only after countless individuals put in countless hours of intense bargaining. No one got all they wanted. However, the process held together and a good treaty emerged.

Several individuals from my state were instrumental in representing the diverse interests in the Oregon fishing community. Special appreciation must go to Mr. Jack Donaldson, Director of the Oregon Department of Fish and Wildlife and Mr. Tim Wapato, Executive Director of the Columbia River Inter-Tribal Fish Commission. I appreciate the manner in which they kept me informed of the treaty's progress and the business-like manner in which they represented their respective interests.

While I am pleased that a treaty is about to be ratified by the Senate, that treaty will be meaningless if we do not provide adequate legislation to see that the agreement can be implemented. I believe that S. 516, and its companion H.R. 1093, provide the necessary framework to complete the mandates contained in the treaty. I, therefore, urge the Members of the Senate Commerce Committee to report this legislation to the full Senate as quickly as possible.

Furthermore, I am committed to work with my colleagues in the Congress to see that adequate funds are made available for the establishment of the several commissions and the enhancement programs. We must pass this important legislation now if we are to return salmon stocks to their historic levels. The fishermen of the Northwest are waiting for us to act.

STATEMENT OF HON. VICTOR ATIYEH, GOVERNOR, STATE OF OREGON

Oregon is very excited over the prospect of a Pacific Salmon Treaty. We have been at the end of the long chinook salmon harvest trail for a long time. A combination of environmental losses in the freshwater phase of the salmon's life, coupled with the overharvesting of mixed stocks of adults, have reduced some runs in the Columbia River to be considered in a threatened condition.

State, federal and tribal agencies have worked diligently for many years in the Columbia River system to improve spawning and rearing conditions in the tributaries and to enhance fish passage at dams on the main stem of the Columbia. The passage of the Northwest Power Planning Act as given new hope to the fisheries of the Columbia Basin. We now see the potential for accelerated returns of salmon, both natural and artificially produced.

Without a Pacific Salmon Treaty, however, the salmon revival in the Columbia River cannot be accomplished. Citizens of Oregon and the other Columbia Basin states are not interested in assessing themselves through licenses, taxes, and power rates to improve salmon stocks if these fish are to be taken primarily in Alaskan and Canadian waters.

Oregon also has much to gain beyond assistance to the Columbia River and its tributaries. The majority of our coastal rivers produce chinook stocks that migrate north in the ocean. Of the chinook originating from the Trask and Salmon rivers in Oregon, those caught in the ocean fisheries off Alaska and Canada account for 87% and 94%, respectively. Although these stocks are important to Oregon's north coast

sport and commercial fisheries, the incentive to continually enhance these stocks is difficult to maintain when the return is so drastically out of balance.

Now we have the potential to accomplish major turnarounds in our Pacific salmon fisheries. The Treaty commits the United States to two basic principles: First, to prevent overfishing and provide for optimum salmon production; and second, to provide for each country to receive benefits equivalent to the production of salmon originating in its waters.

These principles will allow regulations to control catch interception which will provide for an equitable catch allocation along with improved spawning escapement. And, the principles will stimulate salmon enhancement with the initiating state knowing it will be the primary beneficiary.

I urge you to expedite the ratification of this Treaty and to pass the implementing language exactly as it is written. The negotiation of this Treaty has been long and exhaustive. Both parties have thought, and fought, over each word. Any changes at this point threaten to unravel the whole fabric of the Treaty.

Thank you for the opportunity to support this Treaty. Oregon is eagerly awaiting its consummation so we can get on with improving the Northwest salmon fisheries.

STATEMENT OF MARK CEDERGREEN, CHAIRMAN, U.S./CANADA TREATY COALITION,
BOARD MEMBER, WASHINGTON STATE CHARTERBOAT ASSOCIATION

Since the mid-1970's, the recreational fishery off the coast of Washington State has experienced a steady decline. This past season was a social and an economic disaster. Sport fishermen off our coast caught over one million salmon during an April 15-October 31 season in 1976. In 1984, sport fishermen caught less than sixty thousand salmon in a record short 13 day season. Our industry has provided a major proportion of the economic base of Washington coastal communities and provides the public a means by which to participate in the salmon resource.

We have identified three major reasons for the recent decline. First, "El Nino" has certainly been a significant factor in the scarcity of salmon in 1983 and 1984. However, that phenomena has dissipated and would be extremely difficult to control or legislate. We will have to adjust for future "El Ninos" to the best of our abilities. Secondly, Indian Treaty rights have affected our industry. When you are put into a position of catching only half of what you previously caught almost all of, there are adjustments to be made. Here again, Treaty rights are a reality and our industry is prepared to live with those rights. We strongly support the negotiation process established with the Tribes by Washington Fishery Director Bill Wilkerson. Finally, it is apparent that the major problem that we have been facing, and the only one that we have an opportunity to cure, is the Canadian interception of salmon stocks. During the precipitous decline of the recreational fishing industry during the past eight years Canadian interceptions of our salmon have increased substantially. Certainly, our opportunities have been precluded by a fishery over which we have no control.

The failure of the Treaty negotiations during the winter of 1983-1984 stimulated our Charterboat Association to mount a major effort to resolve the interception issue. We initiated and promoted the formation of the U.S./Canada Treaty Coalition. We contacted the Tribes, other sport and commercial fishing organizations, and fishery agencies. We received overwhelming support for our position and our endeavor to negotiate a treaty. It was obvious to all of us that if we didn't get together for the sake of the salmon that we might find ourselves litigating over the last one. Tribal and State technical people assisted us in developing our position. We planned and carried out a strategy based upon public education. With the help of our Senators, Congressmen, and both the State and National Administrations, we returned to the negotiating table with Canada. Ted Kronmiller, with the able assistance of Counselor Edward Derwinski of the State Department, did a remarkable job of negotiating and in December of 1984, he got us a treaty.

Our Association didn't get everything it wanted out of the Treaty. No-one got everything they wanted. In the short term, we may continue to suffer. In the long term, however, we will be winners. Everyone will be a winner because the salmon will be a winner. The Pacific Salmon Treaty provides the mechanism to reverse the decline in the salmon. It provides for rational management throughout the range of the resource. It allows for the systematic rebuilding of the resource to a level where, once again, recreational fishing and the coastal communities may prosper. This Treaty provides a stable future for the Chinook Salmon, prized by all sport fishermen. It also provides for a reversal of the interception of our Coho salmon, the

"bread and butter" of the recreational fishery. This Treaty is the only hope for the future of the sport fishery on our coast.

The Charterboat Association fully supports H.R. 1093. We would add, however, that we believe that it is imperative that an appropriation be authorized to:

(a) provide a per diem for non-government panel members and alternates at the daily rate of GS 16.

(b) provide a per diem for non-government commissioners and alternates at the daily rate of GS 18.

(c) provide reimbursement for travel and related expense of all commissioners and alternates, panel members and alternates, joint technical staff personnel, and advisory board members.

We also most strongly advise you to consider the above as the only amendment to this legislation. It has the total support of the U.S. delegation to the negotiations. Other amendments can only delay the implementation of this Treaty unless there is unanimous support among the U.S. delegation.

As a part of my testimony, I include a copy of a letter written to Secretary of State Shultz on behalf of the North west scientific community. We share their views.

Billy Frank, Jr. of the Nisqually Tribe put it very aptly last Fall when he stated that "if the salmon could talk, he'd be yelling for help!" We respectfully ask for your help in passing the enabling legislation for this all-important Treaty. Thank you for the opportunity to express our views.

WASHINGTON TROLLERS ASSOCIATION,
Bellevue, WA, February 27, 1985.

Hon. SLADE GORTON,
United States Senator, Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: This letter is submitted for consideration at the Senate Commerce, Science, and Transportation Committee Hearings on March 1, 1985.

The proposed draft which has been put together is supposedly a "consensus" of the participants at the treaty talks. This is not the case! The sessions on the enabling legislation were handled by Federal attorneys and much of the direction taken in the draft is directed at protecting the Federal position.

SOUTHERN PANEL PARTICIPANTS

Our biggest problem with the draft legislation is the proposed make-up of the "Southern Panel", Section 3c. Out of the 6 U.S. positions on the Southern Panel, only one position is allotted to non-Indian fishermen with a commercial and recreational representative filling the position in alternate years. For all practical purposes this gives the commercial sector and the recreational sector each one-half vote. The reason this bizarre arrangement is being proposed results from the insistence of the Federal attorneys to reserve one position for a Federal representative.

We believe this to be inappropriate and request that the Federal position on the Southern Panel be dropped and that two positions be given to the user groups; namely, one position for the commercial sector and one position for the recreational sector. We also request that the definition of commercial sector be changed to read: "ocean commercial" (page 5, line 16).

One need only look at the history of representation on the Pacific Fishery Management Council to understand the lack of respect which accrues from a fisheries policy body which has poor user group representation and participation. With one-half vote for each user group, the treaty will have two strikes against it as it commences operation. The Federal representative on the Commission will be non-voting so we see little need to have a Federal representative on the Southern Panel. By the basic framework of this legislation, their input is insured. *We also do not understand why four out of the six members on the Northern Panel are to be from the industry whereas we who are impacted by the Southern Panel only have half a member.* This really makes no sense.

COMPENSATION

We believe that advisory members should be compensated and that all, not just 6, advisory members should be paid for their expenses, Section 10(c).

We also believe that all non-governmental Commissioners, Panel Members, Alternate Commissioners, and Alternate Panel Members should be compensated and paid for expenses, Section 11(a). If the user groups end up with only one-half vote on the

Southern Panel, it will be particularly important that the alternate user group Panel Member be compensated and paid for expenses along with the user group panel member.

If the United States expects quality people to devote their energies towards the enhancement of the resources, it is appropriate that those people be compensated.

We trust that our recommendations will be given thoughtful consideration. We would be pleased to discuss these matters by telephone with your representatives.

Sincerely yours,

DOUGLAS FRICK,
President.

PACIFIC NORTHWEST UTILITIES CONFERENCE COMMITTEE,
March 4, 1985.

HON. ROBERT PACKWOOD,
United States Senate, Washington, DC.

DEAR SENATOR PACKWOOD: By this letter, the Pacific Northwest Utilities Conference Committee (PNUCC) urges prompt ratification of the "Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon" (the "Treaty"). PNUCC, whose 130 members are the consumer-owned and investor-owned utilities of the Pacific Northwest and the direct service industrial customers of Bonneville Power Administration (BPA), is a non-profit technical and planning organization which represents its members common interests relative to regional fish and wildlife and power issues.

For the past four years since the enactment of the Northwest Electric Power Planning and Conservation Act (the "Act") (P.L. 96-501), PNUCC has actively participated in the development of a fish and wildlife program mandated by section 4(h) of the Act. The Fish and Wildlife Program, adopted by the Northwest Power Planning Council (the Council) on November 15, 1982, was designed to protect, mitigate, and enhance fish and wildlife affected by the development and operation of hydroelectric facilities on the Columbia River and its tributaries. The costs of implementing the many measures included in this Fish and Wildlife Program are to be borne by the ratepayers of the Pacific Northwest. One major reason for PNUCC's active involvement in the development and implementation of the Fish and Wildlife Program is to ensure that the enormous investment by the ratepayers in Columbia River Basin fish protection and enhancement measures results in increased numbers of salmon and steelhead returning to the Columbia River and its tributaries.

Over \$800 million in capital investment has been spent on fish passage and production facilities with an attendant \$11 million in annual operation and maintenance costs. The Fish and Wildlife Program developed by the Council has a projected cost in excess of \$700 million, and an additional estimated annual revenue loss due to the Program's Water Budget flows of \$60 million. To protect this already large and growing investment in fish and wildlife protection and enhancement, PNUCC has repeatedly urged the Council to address a major obstacle to the restoration of Columbia River fish runs. That obstacle, large-scale inadequately regulated ocean harvest is a major impediment to increasing adult fish returns to the Columbia River.

In the absence of a treaty obligating Canada and the United States to institute a management structure that provides for coordination of salmon fishing regulations across numerous political jurisdictions, effective management of the ocean harvest has been virtually impossible. Provisions for development of such a management structure are incorporated in the Treaty before the Senate. Moreover, one of the fundamental principles of the proposed Treaty—to prevent overharvest and provide for optimum escapement—was a major tenet of PNUCC's numerous presentations to the Council during the development of the Fish and Wildlife program.

While PNUCC or its members may have concerns about certain fishery regimes in the Treaty and their supporting data, we recognize that these are interim regimes. The Treaty provides a framework for development and continuing refinement of harvest regimes through the Pacific Salmon Commission. Therefore, we believe that the Treaty is a major accomplishment and will be a vital step forward in achieving long-term control over ocean harvest and in restoring Columbia River salmon runs. For these reasons, PNUCC strongly endorses ratification of the Treaty.

PNUCC asks that you support ratification of the Treaty draft currently before the Senate.

Sincerely,

DIANA E. SNOWDEN,
Executive Director.